United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 90th CONGRESS, FIRST SESSION

SENATE

TUESDAY, DECEMBER 5, 1967

The Senate met at 10 a.m., and was called to order by Hon. GALE W. MCGEE, a Senator from the State of Wyoming.

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

Our Father God, grant us, we beseech Thee, the grace of toiling in these fields of time in the sense of the eternal. Lead us, in the stress and strain of this new day, to the sources of strength and victory, to the green pastures and still waters of Thine enabling grace.

As Thy servants in this temple of democracy, give us courage and strength for the vast task of social rebuilding that needs to be dared if life for all men is to be made full and free.

In the silence of this still moment before the rush of another day, may open windows of faith flood our darkness with light, that in Thy sunshine's blaze our life may be brighter. Give us inner greatness of spirit and clearness of vision to meet and match the large designs of this glorious yet demanding day, that we may keep step with Thy purpose which is marching on.

Teach us a gentler tone, a sweeter charity of words, and a more healing touch for all the smart of this wounded world.

In the dear Redeemer's name. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 5, 1967.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. GALE W. MCGEE, a Senator from the State of Wyoming, to perform the duties of the Chair during my absence.

CARL HAYDEN,
President pro tempore.

Mr. MCGEE thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, December 4, 1967, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Geisler, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session,

The ACTING PRESIDENT pro tempore laid before the Senate a message from the President of the United States submitting the nomination of James M. Nicholson, of Indiana, to be a Federal Trade Commissioner, which was referred to the Committee on Commerce.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the following bills of the Senate, each with an amendment, in which it requested the concurrence of the Senate:

S. 1785. An act to improve certain benefits for employees who serve in high-risk situations, and for other purposes; and

S. 2247. An act to amend the Merchant Marine Act, 1936, to increase the Federal ship mortgage insurance available in the case of certain oceangoing tugs and barges.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 470. An act to authorize the Pharr Municipal Bridge Corp. to construct, maintain, and operate a toll bridge across the Rio Grande near Pharr, Tex.;

H.R. 555. An act to amend sections 312, 301(b), 320(a), and 321(a) of the Immigration and Nationality Act;

H.R. 6437. An act to amend the Agricultural Adjustment Act of 1938, as amended, to permit advance payments to wheat producers;

H.R. 9833. An act to amend section 1331 (c) of title 10, United States Code, to authorize the granting of retired pay to persons otherwise qualified who were Reserves before August 16, 1945, and who served on active duty during the so-called Berlin crisis;

H.R. 11542. An act for the relief of Marshall County, Ind.;

H.R. 12639. An act to remove certain limitations on ocean cruises;

H.R. 12899. An act to amend section 1072 (2) (F) of title 10, United States Code, to include other than natural parents and parents-in-law within the category of dependent eligible for medical care;

H.R. 13273. An act to amend the Marine Resources and Engineering Development Act of 1966, as amended, to extend the period of time within which the Commission on Marine Science, Engineering, and Resources is to submit its final report and to provide for a fixed expiration date for the National Council on Marine Resources and Engineering Development; and

H.R. 13833. An act to provide that the post office and Federal office building to be constructed in Bronx, N.Y., shall be named the "Charles A. Buckley Post Office and Federal Office Building" in memory of the late Charles A. Buckley, a Member of the U.S. House of Representatives from the State of New York from 1935 through 1964.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 470. An act to authorize the Pharr Municipal Bridge Corp., to construct, maintain, and operate a toll bridge across the Rio Grande near Pharr, Tex.; to the Committee on Foreign Relations.

H.R. 555. An act to amend sections 312, 301(b), 320(a), and 321(a) of the Immigration and Nationality Act; and

H.R. 11542. An act for the relief of Marshall County, Ind.; to the Committee on the Judiciary.

H.R. 6437. An act to amend the Agricultural Adjustment Act of 1938, as amended, to permit advance payments to wheat producers; to the Committee on Agriculture and Forestry.

H.R. 9833. An act to amend section 1331(c) of title 10, United States Code, to authorize the granting of retired pay to persons otherwise qualified who were Reserves before August 16, 1945, and who served on active duty during the so-called Berlin crisis; and

H.R. 12899. An act to amend section 1072 (2) (F) of title 10, United States Code, to include other than natural parents and parents-in-law within the category of dependent eligible for medical care; to the Committee on Armed Services.

H.R. 12639. An act to remove certain limitations on ocean cruises; and

H.R. 13273. An act to amend the Marine Resources and Engineering Development Act of 1966, as amended, to extend the period of time within which the Commission on Marine Science, Engineering, and Resources is to submit its final report and to provide for a fixed expiration date for the National Council on Marine Resources and Engineering Development; to the Committee on Commerce.

H.R. 13833. An act to provide that the post office and Federal office building to be constructed in Bronx, N.Y., shall be named the "Charles A. Buckley Post Office and Federal Office Building" in memory of the late Charles A. Buckley, a Member of the U.S. House of Representatives from the State of New York from 1935 through 1964; to the Committee on Public Works.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that statements in relation to the transaction of routine morning business be limited to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Post Office and Civil Service, the Permanent Subcommittee on Investigations of the Committee on Government Operations, and the Subcommittee on Business and Commerce of the Committee on the District of Columbia be authorized to meet during the session of the Senate today.

Mr. STENNIS. Mr. President, reserving the right to object—I do not know whether I will object—that is a long list of committees. How can we have consideration on the floor of the Senate on amendments to the pending bill on their merits if all these committees are meeting? I stated yesterday that one of my problems is getting an amendment understood. I just do not know how it will work out.

Mr. MANSFIELD. May I say to the distinguished Senator that the McClellan Subcommittee on Investigations of the Committee on Government Operations is the only one of the three which will meet this afternoon.

Mr. STENNIS. That will help the situation a great deal. Is the Senator's request only for morning meetings for all except the Permanent Subcommittee on Investigations?

Mr. MANSFIELD. All of them to meet this morning, except the Investigating Committee.

Mr. STENNIS. I have no objection.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

REPORT OF PROCEEDINGS OF THE CONVENTION OF AMERICAN INSTRUCTORS OF THE DEAF

The ACTING PRESIDENT pro tempore laid before the Senate a letter from the president, Gallaudet College, Washington, D.C., transmitting, pursuant to law, a report of the Convention of American Instructors of the Deaf, held at West Hartford, Conn., June 25–30, 1967, which, with the accompanying report, was referred to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KUCHEL, from the Committee on Interior and Insular Affairs, with amendments:

S. 2402. A bill to provide for credit to the Kings River Water Association and others from excess payments for the years 1954 and 1955 (Rept. No. 837).

By Mr. MORSE, from the Committee on the District of Columbia, with an amendment:

H.R. 10964. An act to enable the District of Columbia to receive Federal financial assistance under title XIX of the Social Security Act for a medical assistance program, and for other purposes (Rept. No. 839).

By Mr. MORSE, from the Committee on the District of Columbia, with amendments:

H.R. 11638. An act to amend title II of the act of September 19, 1918, relating to industrial safety in the District of Columbia (Rept. No. 838).

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

By Mr. KENNEDY of Massachusetts:

S. 2718. A bill for the relief of Bronislaw Giro; to the Committee on the Judiciary.

By Mr. RANDOLPH:

S. 2719. A bill to permit a State or political subdivision thereof to mail automobile registration certificates as enclosures in third- or fourth-class mail; to the Committee on Post Office and Civil Service.

By Mr. JAVITS:

S. 2720. A bill for the relief of Heng Liong Thung and Yvonne Maria Thung; to the Committee on the Judiciary.

By Mr. DOMINICK (for himself, Mr. ALLOTT, Mr. BAKER, Mr. BIBLE, Mr. BREWSTER, Mr. CARLSON, Mr. CASE, Mr. CLARK, Mr. COOPER, Mr. COTTON, Mr. CURTIS, Mr. DODD, Mr. FANNIN, Mr. HANSEN, Mr. HATFIELD, Mr. JAVITS, Mr. KENNEDY of Massachusetts, Mr. KENNEDY of New York, Mr. MAGNUSON, Mr. MCGEE, Mr. NELSON, Mr. PELL, Mr. PROUTY, Mr. RIBICOFF, Mr. SCOTT, Mr. TOWER, and Mr. THURMOND):

S.J. Res. 127. Joint resolution to proclaim National Jewish Hospital Save Your Breath Month; to the Committee on the Judiciary.

(See the remarks of Mr. DOMINICK when he intorduced the above joint resolution, which appear under a separate heading.)

RESOLUTION

PERMISSION FOR CERTAIN EMPLOYEES OF THE SENATE TO TESTIFY

Mr. McCLELLAN, from the Committee on Government Operations, reported an original resolution (S. Res. 192) permitting certain employees of the Senate to testify in civil action No. 1146, pending in the U.S. District Court for the Eastern District of Kentucky, and for other purposes, which was considered and agreed to.

(See the above resolution printed in full when reported by Mr. MCCLELLAN, which appears under a separate heading.)

NATIONAL JEWISH HOSPITAL SAVE YOUR BREATH MONTH

Mr. DOMINICK. Mr. President, I introduce for appropriate reference a joint resolution which would authorize and request the President to issue a proclamation designating March 1968 as National Jewish Hospital Save Your Breath Month. The President is further requested to emphasize in his proclamation the major public health problem presented by chronic respiratory disease, and to call upon all people of the United States to observe appropriate medical safeguards for their own respiratory health and that of their families.

Mr. President, National Jewish Hospital is well known to the Members of this body. At least 41 present Members of the Senate as well as President Johnson, Vice President HUMPHREY, and former Presidents Truman and Eisenhower have been sponsors of the hospital.

I have had for many years some personal familiarity with the hospital and with those responsible for its operation.

Located in Denver, National Jewish Hospital's services have been widely utilized nationally, even internationally. Its officers reside in nine States and the District of Columbia—its board of trustees in 33 States and the District of Columbia. Indeed, it operates as an extension and an addition to the medical and research facilities of every community in the land. The hospital has given more than 5 million days of free treatment to patients from some 6,000 communities throughout the Nation. The cost of care available at National Jewish Hospital—a cost which would otherwise be borne by the communities from which patients come—neared $5 million for fiscal 1965–66.

Although the name might indicate otherwise, the National Jewish Hospital does not serve only the Jewish population. In fact the first person admitted was a Catholic. Since its inception, it has been completely nonsectarian in its policies. Men, women, and children are admitted regardless of age, race, creed, or geographic origin.

I believe this joint resolution to be timely and important. Hopefully it will focus national attention on the alarming rapid and continuing rise of chronic respiratory disease in the United States. Such diseases now constitute the major single cause of time lost from work or school and rank fourth in the cause of death. Tuberculosis, asthma, emphysema, and other pulmonary cripplers now afflict more than 10 million Americans, killing an estimated 160,000 a year.

Tuberculosis, still the world's No. 1 infectious disease problem, continues in this country and abroad despite efforts to eradicate it. An estimated 1.5 billion persons—half the world population—are believed to be infected with the germ of tuberculosis. Some estimates are that 30 million Americans now carry the inactive germ. New, active cases are reported at the rate of 50,000 a year. Americans still die of tuberculosis—about 8,000 annually.

More than 4 million suffer from asthma in the Nation. Asthma kills 4,000 people a year.

Approximately 3,000,000 people are suffering from emphysema, a disease of irreparable lung destruction. The Social Security Administration reports the disease disables more than 15,000 workers every year.

Emphysema and chronic bronchitis have sprung from relative obscurity into grim prominence as killer diseases, taking a total of 20,000 lives a year in the United States.

These figures, I suspect, jolt the conscience of many. At National Jewish Hospital the challenge is being met head on.

The hospital was founded in 1890 as the Jewish Hospital Association of Colorado by a small band of Jewish pioneers. They shared a dream of a haven for the destitute victims of tuberculosis. The fame of Colorado's climate had spread far and wide. The only prescription for tuberculosis in those days was fresh, dry air, sunshine and rest. Denver

could supply the first two requirements in abundance. Eleven lots were purchased, in what was then Arapahoe country, and a three-story building was erected. From a 60-bed tuberculosis sanatorium, National Jewish Hospital has grown to an institution of 18 buildings, with 280 beds, including a Children's Treatment Center, the Neustadt and Hearst Laboratories and the National Rehabilitation Center. The spacious, campuslike setting covers an area of 16.5 acres in a residential section of Denver.

National Jewish Hospital has been modified through the years to meet the changing requirements of a modern chest disease center. In addition to treatment for a host of chest ailments that endanger man's ability to breathe, it has a full surgical service for both cardiovascular and pulmonary procedures. I understand it was the first institution in the world to establish a separate adult inpatient service for the treatment of chronic asthma. But looking beyond treatment, the hospital is also engaged in research, education, and rehabilitation.

The hospital has been guided by the thought that it has a duty not only to apply the findings made by the researchers all over the world to the care of patients, but also to contribute to the funds of knowledge. Thus, research is carried out by physicians directly concerned with the care of patients as well as by workers in the division of research, remote from contact with the patient.

Physicians, research scientists, nurses, medical technicians, and undergraduate students come to the hospital from many parts of the world, seeking training in chest medicine and surgery, laboratory techniques, tuberculosis nursing, social service, occupational therapy, psychology and other paramedical disciplines. In addition to the regular training program, the National Jewish Hospital shares leadership in one of the country's largest and first cooperative programs of tuberculosis training under the auspices of the U.S. Public Health Service.

The hospital also has a comprehensive medical-rehabilitation program based on the concept that every facet of the patient's life should be considered in determining appropriate treatment. Except for periods of acute illness, patients are up and around during their hospitalization and share in planned activity programs in the hospital and in the community. The aim is to return the patient to family and community as prepared as possible to live a normal life. To increase the prospects of the patient's return to a normal life, a number of courses in job training are conducted at the hospital. All children of school age are enrolled in classes conducted in classrooms at the hospital. Both high school age patients and those interested in higher education may enroll in schools outside the hospital. Recreational programs, organized by the patients through councils and under the supervision of a trained worker, are available. Significant of the progressive thinking of the hospital is the industrial therapy program under which the hospital obtains contracts from local industries for light, skilled, and semiskilled jobs which can be performed by the patient. Wages are commensurate with the individual's work capacity, and the patient receives valuable experience which may increase his employability on discharge.

Mr. President, this pioneer medical and research center is one of the few institutions in the world concentrating its total effort on chronic respiratory diseases. It is, I believe, unique in its experience and facilities, and remarkably fitted for its role of leadership in the attack on diseases which rob us of our ability to breathe.

Its admission requirement "None may enter who can pay—none can pay who enter" is known around the world.

National Jewish Hospital Save Your Breath Month can be the focal point of an intensive national educational campaign to alert all people to the increase of chronic respiratory diseases, to emphasize the importance of early detection through regular medical checkups, and to inform the public of the status of medical knowledge and current research in respiratory diseases.

I ask unanimous consent that the joint resolution be printed in the RECORD at this point.

The ACTING PRESIDENT pro tempore. The joint resolution will be received and appropriately referred; and, without objection, the joint resolution will be printed in the RECORD.

The joint resolution (S.J. Res. 127) to proclaim National Jewish Hospital Save Your Breath Month, introduced by Mr. DOMINICK (for himself and other Senators), was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S.J. RES. 127

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in response to the growing national concern occasioned by the increase of chronic respiratory disease and in recognition of the accomplishments of medical science in the detection and control of such disease, the President of the United States is hereby authorized and requested to issue a proclamation (1) designating March 1968 as National Jewish Hospital Save Your Breath Month, and (2) emphasizing the major public health problem presented by chronic respiratory disease, and calling upon the people of the United States to observe appropriate medical safeguards for their own respiratory health and that of their families.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1967—AMENDMENT

AMENDMENT NO. 488

Mr. BYRD of Virginia submitted an amendment, intended to be proposed by him, to the bill (H.R. 7819) to strengthen and improve programs of assistance for elementary and secondary education by extending authority for allocation of funds to be used for education of Indian children and children in overseas dependents schools of the Department of Defense, by extending and amending the National Teacher Corps program, by providing assistance for comprehensive educational planning, and by improving programs of education for the handicapped; to improve authority for assistance to schools in federally impacted areas and areas suffering a major disaster; and for other purposes which was ordered to lie on the table and to be printed.

AMENDMENT NO. 489

Mr. LAUSCHE. Mr. President, I submit an amendment, intended to be proposed by me, to House bill 7819, and I ask unanimous consent that the amendment be printed in the RECORD.

The ACTING PRESIDENT pro tempore. The amendment will be received and printed, and will lie on the table; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 55, beginning with line 16, strike out all through the period in line 19 and insert in lieu thereof the following: "and $500,000,000 for the fiscal year ending June 30, 1968, and for each of the three succeeding fiscal years.".

On page 84, line 3, beginning after the colon strike out all through line 7 and insert in lieu thereof the following: " 'and $65,000,000 for the fiscal year ending June 30, 1968, and each of the three succeeding fiscal years,'.".

On page 88, line 16, beginning with "$20,000,000" strike out all through line 18 and insert in lieu thereof the following: "and for each of the three succeeding fiscal years.".

On page 98, line 13, beginning with "$8,000,000" strike out all through line 16 and insert in lieu thereof the following: "and for each of the three succeeding fiscal years.".

On page 104, line 1, beginning with "$3,000,000" strike out all through line 4 and insert in lieu thereof the following: "and for each of the three succeeding fiscal years.".

On page 109, beginning with line 14, strike out all through line 17 and insert in lieu thereof the following:

(e) Section 4 of such Act is amended by striking out "$5,000,000" and all through the remainder of such section and inserting in lieu thereof the following: "and $8,000,000 annually for each succeeding fiscal year thereafter.".

On page 111, line 9, beginning with "$3,500,000" strike out all through line 13 and insert in lieu thereof the following: "and not to exceed $3,500,000 for the fiscal year ending June 30, 1968 and each of the three succeeding fiscal years'.".

On page 131, line 8, beginning with "$150,000,000" strike out all through line 12 and insert in lieu thereof the following: "and $150,000,000 for the fiscal year ending June 30, 1968 and for each of the three succeeding fiscal years'.".

On page 131, line 20, beginning with "$150,000,000" strike out all through line 24 and insert in lieu thereof the following: "and $150,000,000 for the fiscal year ending June 30, 1968 and for each of the three succeeding fiscal years'.".

On page 137, line 7, beginning with the quotation marks strike out all through line 11 and insert in lieu thereof the following: "all after 'June 30, 1968,' and inserting in lieu thereof the following: 'and for each of the three succeeding fiscal years, for the purposes of this title.' ".

On page 140, beginning with line 7, strike out all through line 9 and insert in lieu thereof the following: "and for each of the three succeeding fiscal years.".

On page 150, line 1, beginning with the semicolon strike out all to but not including the period in line 4.

PROVISION OF HOUSING FOR LOW AND MODERATE INCOME FAMILIES—AMENDMENT

AMENDMENT NO. 490

Mr. BENNETT submitted an amendment, intended to be proposed by him,

to the bill (S. 2700) to assist in the provision of housing for low and moderate income families, and to extend and amend laws relating to housing and urban development, which was ordered to lie on the table and to be printed.

ADDITIONAL COSPONSORS OF CONCURRENT RESOLUTION

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Connecticut [Mr. RIBICOFF] I ask unanimous consent that, at its next printing, the names of the Senator from Pennsylvania [Mr. CLARK] and the Senator from New Jersey [Mr. WILLIAMS] be added as cosponsors of the concurrent resolution (S. Con. Res. 52) to initiate action to establish an International Education Year.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ENROLLED BILLS SIGNED

The ACTING PRESIDENT pro tempore announced that on today, December 5, 1967, the Vice President signed the following enrolled bills, which had previously been signed by the Speaker of the House of Representatives:

S. 814. An act to establish the National Park Foundation;

S. 1003. An act to amend the Flammable Fabrics Act to increase the protection afforded consumers against injurious flammable fabrics;

S. 2565. An act to amend the Federal Farm Loan Act and the Farm Credit Act of 1933, as amended, and for other purposes;

S. 2644. An act to amend the Atomic Energy Community Act of 1955, as amended, the Atomic Energy Act of 1954, as amended, and the Euraton Cooperation Act of 1958, as amended;

H.R. 2154. An act to provide long-term leasing for the Gila River Indian Reservation;

H.R. 2275. An act for the relief of Dr. Ricardo Vallejo Samala and to provide for congressional redistricting;

H.R. 2730. An act authorizing the Administrator of Veterans' Affairs to convey certain property to Temple Junior College, Temple, Tex.;

H.R. 2828. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Iowa Tribes of Kansas and Nebraska and of Oklahoma in Indian Claims Commission dockets Nos. 138 and 79, and for other purposes;

H.R. 4920. An act to amend the act of August 9, 1955, to authorize longer term leases of Indian lands on the San Carlos Apache Reservation in Arizona; and

H.R. 4983. An act to disclaim any right, title, or interest by the United States in certain lands in the State of Arizona.

CONGRESSIONAL DIRECTORY, 1968

Mr. HAYDEN. Mr. President, the Congressional Directory for 1968 is scheduled to go to press about mid-December. In order that House and Senate Members may acquire additional copies above their regular allotments, arrangements have been made to order extra copies at a reduced rate of $2.05 for the thumb indexed and $1.45 for the nonindexed.

Orders are to be placed with the CONGRESSIONAL RECORD clerk, room H–112, Capitol, extension 2100. All orders must be received on or before December 8. An order form for this purpose has been sent to each office, as a part of each Senator's personal office announcement.

NOTICE OF HEARING ON NOMINATION BY COMMITTEE ON THE JUDICIARY

Mr. ERVIN. Mr. President, as chairman of the Subcommittee on Constitutional Rights, I wish to announce that a hearing will be held on the nomination of Stephen J. Pollak, of the District of Columbia, to be an Assistant Attorney General, Civil Rights Division, Department of Justice.

The hearing will begin on Tuesday, December 12, 1967, at 10:30 a.m. in room 2228 of the New Senate Office Building. Any person who wishes to appear and testify or submit a statement pertaining to this nomination should send the request or prepared statement to the subcommittee.

NOTICE OF RECEIPT OF NOMINATION BY THE COMMITTEE ON FOREIGN RELATIONS

Mr. MANSFIELD. Mr. President, on behalf of the chairman of the Committee on Foreign Relations, the gentleman from Arkansas [Mr. FULBRIGHT], I desire to announce that today the Senate received the following nomination:

Charles E. Bohlen, of the District of Columbia, a Foreign Service officer of the class of career ambassador, to be a Deputy Under Secretary of State.

In accordance with the committee rule, this pending nomination may not be considered prior to the expiration of 6 days of its receipt in the Senate.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I be recognized for 10 minutes.

The PRESIDING OFFICER (Mr. PROXMIRE in the chair). Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

ANNOUNCED RESIGNATION OF DEFENSE SECRETARY ROBERT S. McNAMARA

Mr. MANSFIELD. Mr. President, the announcement that Robert S. McNamara will be leaving the Defense Department has stirred wide public interest. His is not a routine departure. Rather, it removes from the leadership of the Nation an exceptional adviser to two Presidents and an active administrator of by far the largest Department of the Government. The Department of Defense spends well over half of all the money spent by the Federal Government and employs over 75 percent of all Federal personnel—military and civilian.

For 7 years, Mr. McNamara rode herd on this enormous undertaking. Moreover, as Secretary, his decisions have had enormous impact not only on this Nation but on the world as well. The absence of his counsel will be felt for a long time to come. His resignation will leave a vacuum of incalculable proportions.

It is my understanding that Mr. McNamara has been asked to continue indefinitely as Secretary of Defense. Whether that means he will remain to direct the Defense Department for weeks or for months is not clear. In any event, it is to be hoped that he will be in the Pentagon at least long enough to curb the pressures which appear again to be rising for an oozing of the war in South Vietnam further afield, into North Vietnam, into Cambodia and elsewhere in Southeast Asia, and for adding another hundred thousand Americans to the half million who are already there.

These pressures at this time seem to me to make the resignation of Secretary McNamara all the more regrettable. His resignation leaves a disturbing uncertainty about the war and its future course.

The uncertainty, however, should not keep us from recognizing at this time the constructive service which Mr. McNamara has rendered to the Nation during the past 7 years. Although the verdict is not in on all of his major decisions, his place in the Nation's history is secure. His most fundamental contribution, in my judgment, is to be found in the reorganization which he has induced in the Department of Defense. That achievement involves not only the saving of untold billions of dollars—past, present, and future—but it may also help to check the erosion of civilian control, which is as essential to the effective usage of military personnel by a free nation as it is to the security of the Republic. The magnitude of the task has been almost overwhelming. It has kept the Secretary at his desk for intolerable hours day after day. The Nation owes him an immense debt of gratitude for this dedication.

Secretary McNamara has also been an eloquent spokesman for sanity in nuclear affairs. One hopes that in the retrospect of history, this role may well prove to be the most significant. He was a moving force behind the negotiation and signing of the nuclear test ban treaty. He has continued to urge further controls on nuclear weapons. Most important, he has alerted the Nation to the reality that ever-increasing stockpiles of nuclear destruction here tend to lead to ever-increasing stockpiles of nuclear destruction elsewhere and that the continuance of this deadly volley leads not to national security for any nation but to international insecurity for all nations.

Throughout his tenure as Secretary of Defense, Mr. McNamara has conducted himself with integrity and intelligence and with dignity and courage. I should like to take this opportunity to express to him the appreciation, which I know is widely shared in the Senate, for his service to the Nation and my personal thanks for his unfailing courtesy over the years.

In his relations with the Senate, notably in his appearances as a committee witness, his erudition and candor have been refreshing. The Secretary has been most respectful of the Senate's responsibilities in the realm of defense and international matters, and he has been

more than cooperative in honoring requests on his time. His public appearances before the committees have provided enlightenment on critical issues, for the Senate and the Nation.

As a case in point, I refer to his testimony on August 25 last before the Preparedness Investigating Subcommittee. In a profound presentation, he refuted the claims that wider bombing of the north would appreciably diminish the amount of supplies moving to the south. At the same time he answered the contention that the criterion for bombing should be expanded beyond that of interdiction of supplies to include total capitulation of the north, the so-called "bomb them into the stone age" approach. In this connection, he stated:

The tragic and long drawn-out character of the conflict in the south makes very tempting the prospect of replacing it with some new kind of air campaign against the north. But however tempting, such an alternative seems to me completely illusory. To pursue this objective would not only be futile but would involve risks to our personnel and to our nation that I am unable to recommend.

I have no doubt that the Secretary would stand by the testimony which he gave to the subcommittee last August. Indeed, events have served to underscore the wisdom of his comments. In the intervening months, notwithstanding his views, the restraints have been chipped away and the bombing has spread, but peace remains as elusive as ever and the level of our casualties in the south remains undiminished.

It is to be hoped that the Secretary will continue to exercise a restraining influence in the weeks or months during which he remains in office and thereby keep open the door to an honorable negotiated settlement with Hanoi, while at the same time avoiding a deeper enmeshment of American forces in Southeast Asia. It is to be hoped, too, that his successor will likewise be a man of prudence, possessed of the knowledge and authority which will enable him to exercise his prudence to the same interconnected ends.

While the loss of Mr. McNamara as head of the Defense Department will be keenly felt, I am delighted that his talents will continue to be employed in a public service of great consequence and one in which he has long been interested. I wish him success and personal satisfaction as President of the International Bank.

There is a great need for new initiatives and energy in the approach to the problems of economic development. In this respect, Mr. McNamara is admirably suited by temperament and training to supply a significant leadership at the Bank. If he brings to his new office—and I am sure that he will—anything approaching the vitality and dedication which has marked his incumbency at the Defense Department, the practices of international cooperation for economic development should receive a great impetus.

Mr. President, I can understand the sense of relief that the McNamara family must feel to know that the grinding workload of 7 years will soon be lifted. Mrs. McNamara is one of the unsung heroines of this city and these times. We tend sometimes to overlook the fact that it is the patience and forbearance of wives and families which bear much of the cost of the demands we make on leading public officials.

I ask unanimous consent, Mr. President, that the testimony of Secretary McNamara before the Preparedness Investigating Subcommittee, to which I have alluded, be printed at this point in the RECORD, and, in addition, that an article on Mrs. McNamara, which appeared in the Washington Post of December 1, 1967, also be printed.

There being no objection, the testimony and the article were ordered to be printed in the RECORD, as follows:

Secretary MCNAMARA. Mr. Chairman, I welcome this opportunity to discuss with you and the members of the committee our conduct of the air war in North Vietnam. It is a matter of the greatest importance that the Congress and the people of the United States have a current and accurate picture of what the air campaign can and cannot accomplish. To address this issue, I should like to discuss these topics.

1. The objectives and achievements of the air war:

2. The target recommendations of the Joint Chiefs of Staff in relation to the objectives, and the extent to which the Chiefs' recommendations are being followed.

3. The proposals of those who argue that the bombing should be expanded, either on the theory that bombing can break the will of the North Vietnamese, thereby forcing them to the conference table, or that bombing can prevent the flow of military supplies into or through North Vietnam, thereby destroying its capability for continued aggression in the South.

I. THE OBJECTIVES OF THE AIR CAMPAIGN

In the light of the many recent public statements and speculations about the purposes and effects of our air attacks, it seems appropriate to preface this review with a restatement of the objectives that the bombing of North Vietnamese targets was intended to serve. As I have stated many times:

Our primary objective was to reduce the flow and/or to increase the cost of the continued infiltration of men and supplies from North to South Vietnam.

It was also anticipated that these air operations would raise the morale of the South Vietnamese people who, at the time the bombing started, were under severe military pressure.

Finally, we hoped to make clear to the North Vietnamese leadership that so long as they continued their aggression against the South they would have to pay a price in the North.

The bombing of North Vietnam has always been considered a supplement to and not a substitute for an effective counterinsurgency land and air campaign in South Vietnam.

These were our objectives when our bombing program was initiated in February of 1965. They remain our objectives today. They were and are entirely consistent with our limited purposes in Southeast Asia. We are not fighting for territorial conquests or to destroy existing governments. We are fighting there only to assure the people of South Vietnam the freedom to choose their own political and economic institutions. Our bombing campaign has been aimed at selected targets of military significance, primarily the routes of infiltration. It has been carefully tailored to accomplish its basic objectives and thus to achieve the limited purposes toward which all our activities in Vietnam are directed.

Weighed against its stated objectives, the bombing campaign has been successful. It was initiated at a time when the South Vietnamese were in fear of a military defeat. There can be no question that the bombing raised and sustained the morale of the South Vietnamese at that time. It should be equally clear to the North Vietnamese that they have paid and will continue to pay a high price for their continued aggression. We have also made the infiltration of men and supplies from North Vietnam to South Vietnam increasingly difficult and costly.

Complete interdiction of these supplies has never been considered possible by our military leaders. I believe that this point has been made to you by General Wheeler, General McConnell, Admiral Sharp, and General Momyer.

Our experience in Korea demonstrated the unlikelihood that air strikes or other means could choke off the minimum amounts needed to support enemy forces.

* * * * *

The nature of the combat in Vietnam, without established battle lines and with sporadic and relatively small-scale enemy action, lessens the requirement for a steady stream of logistical support and reduces the volume of logistical support needed. Moreover, it should be noted that the geography of the infiltration routes is less favorable to interdiction than was the case in Korea. There the entire neck of the peninsula was subject to naval bombardment from either side and to air strikes across its width. The routes into South Vietnam are far more complex, much more protected and involve the use of territories of adjoining countries. Under these highly unfavorable circumstances, I think that our military forces have done a superb job in making continued infiltration more difficult and expensive.

Any discussion of the bombing of North Vietnam must first address the nature of the target. North Vietnam is a land of 18.5 million people. By no standards could it be considered an industrialized country. It is predominantly agricultural. Prior to initiation of the bombing, its significant industrial facilities could be counted on your fingers. It had no steelmaking capacity, no steelmaking plants, and in 1965 its monthly industrial production of pig iron was only 5,000 metric tons, less than one-twentieth of 1 percent of U.S. output. It had no real warmaking industrial base and hence none which could be destroyed by bombing.

North Vietnam's ability to continue its aggression against the South thus depends upon imports of war-supporting material and their transshipment to the South. Unfortunately for the chances of effective interdiction, this simple agricultural economy has a highly diversified transportation system consisting of rails and roads and waterways. The North Vietnamese use barges and sampans, trucks and foot power, and even bicycles capable of carrying 500-pound loads to move goods over this network. The capacity of this system is very large—the volume of traffic it is now required to carry, in relation to its capacity, is very small.

Precise figures on the amount of infiltrated material required to support the Vietcong and North Vietnamese forces in the South are not known. However, intelligence estimates suggest that the quantity of externally supplied material, other than food, required to support the VC/NVA forces in South Vietnam at about their current level of combat activity is very, very small. The reported figure is 15 tons per day, but even if the quantity were five times that amount it could be transported by only a few trucks. This is the small flow of material which we are attempting to prevent from entering South Vietnam through a pipeline which has an outlet capacity of more than 200 tons per day.

Those targets along the lines of communication which can be found are attacked. From January through July, we averaged about [deleted] sorties per month over North

Vietnam [deleted]. About 75 percent of these sorties were directed against lines of communication (LOC) and goods moving over them. Air strikes are reported to have destroyed, in total, during the period of the air campaign, over 4,100 vehicles, 7,400 watercraft and 1,400 pieces of railroad rolling stock. In addition, we have struck approximately 1,900 fixed targets in North Vietnam, including 57 significant bridges, 50 major rail yards, troop barracks, POL storage tanks and powerplants.

North Vietnam has been forced to divert an estimated 300,000 full-time and at least an equal number of part-time workers and troops, to the repair, dispersal, and defense of the lines of communication and other targets which have been damaged. This diversion of some 500,000 people in a society already strained to maintain a marginal subsistence is a severe penalty.

There can be no question that the bombing campaign has and is hurting North Vietnam's warmaking capability. Accordingly, they are using every propaganda means to stop the bombing. Although there are some signs that war weariness is growing, these indications are accompanied by firm expressions of resolve. There is no basis to believe that any bombing campaign, short of one which had population as its target, would by itself force Ho Chi Minh's regime into submission.

I want to repeat, however, that from the military standpoint, bombing of North Vietnam supports our combat operations in South Vietnam. It renders more difficult and costly the efforts of the DRV to supply both their own and VC forces on the other side of the demilitarized zone. As General Wheeler has testified, we have under constant review the advisability of adding new military targets in the north and of conducting restrikes against rail facilities, highways, bridges, military and other war-supporting targets that have previously come under our air attack. There is continuing study of ways in which our air and naval bombardment of North Vietnam can be made more effective in disrupting and interdicting North Vietnamese attempts to support aggression against their southern neighbors.

There also is continuing study of the optimum mix of sorties, both geographically and in types of targets. Consideration is given to every possibiltiy of greater effectiveness through shifts in emphasis. These studies are designed to maximize the cost that our air campaign inflicts on North Vietnam's infiltration of men and supplies while at the same time reducing to the minimum the price that we must pay in the lives of American pilots.

These efforts to refine and improve our application of airpower will, I am confident, continue as long as the necessity for bombing remains. It must, however, be recognized that no improvements and refinements can be expected to accomplish much more than to continue to put a high price tag on North Vietnam's continued aggression.

II. THE TARGET RECOMMENDATIONS OF THE JOINT CHIEFS OF STAFF

To illustrate this point, I might note that the operating target list, currently used by the Joint Chiefs as a basis for the planning of attacks on fixed targets, contains a total of 427 targets. Of this number, the JCS do not now recommend 68 for air attack. Of the remaining 359 targets, strikes have been authorized against 302, 85 percent of the total. There are only 57 targets recommended by the Joint Chiefs of Staff against which strikes have not yet been authorized. Whatever the merits of striking these 57 targets may be, I believe it is clear that strikes against them will not materially shorten the war. As a matter of fact, seven of the 57 targets are recognized by the Chiefs as of little value to the North Vietnamese war effort. For example, one is a tire plant reported to have a productive capacity of but 30 tires per day. Nine of the 57 targets are petroleum facilities which in total equal less than 6 percent of North Vietnam's remaining storage capacity. The present importance of such targets as these has not been shown to warrant risking the loss of American lives.

Of the remaining 41 targets, 25 classified as lesser targets in populated, heavily defended areas; four as more significant targets in such areas; three are ports; four are airfields (in total the remaining Mig's based in North Vietnam approximate 20); and five are in the Chinese buffer zone. In the case of a few of these targets, the risk of direct confrontation with the Communist Chinese or the Soviet Union has thus far been deemed to outweigh the military desirability of air strikes. Others will be considered for "authorization" at a later date.

The conclusive answer to any charge that we are inhibiting the use of our airpower against targets of military significance lies in the facts. As I have noted, strikes have been authorized against 85 percent (302 of 359) of the targets recommended by the Joint Chiefs. And the total number of fixed targets struck in North Vietnam stands now at about 1,900. As further targets are authorized and additional targets are found to be of military importance, this number will increase. But the decisions to authorize new targets cannot be expected to gain different objectives than those toward which our air campaign has always been directed.

III. THE PROPOSALS OF THE CRITICS

Those who criticize our present bombing policy do so, in my opinion, because they believe that air attack against the North can be utilized to achieve quite different objectives. These critics appear to argue that our airpower can win the war in the South either by breaking the will of the North or by cutting off the war-supporting supplies needed in the South. In essence, this approach would seek to use the air attack against the North not as a supplement to, but as a substitute for the arduous ground war that we and our allies are waging in the South.

It would obviously be possible for us to change our present selective bombing campaign. We could abandon the target-by-target analysis which balances the military importance of the target against its probable cost in American lives and the risk it presents of expanding the conflict to involve new combatants. Instead, our air and naval forces might be employed against North Vietnam in an all-out effort to break their will and thus compel them to cease their support of military efforts against the Government of South Vietnam. A somewhat less drastic revision of our air campaign might be undertaken in an effort to restrict the import of war-suporting materials so substantially as to prevent the North Vietnamese leaders from supporting their present level of military effort in South Vietnam. Any such effort would obviously require action to close the three significant North Vietnamese ports of Cam Pha, Hon Gai and, most important, Haiphong.

In order to reach a reasonable conclusion on the key question of whether to abandon our present limited bombing objectives and adopt a policy intended to achieve either of these new objectives, the chances of success must be weighed against the inevitably higher risks such revision would entail. To bring this question into perspective for the committee, I would like to deal first with the likelihood that either of these objectives could be realized through a reorientation of our air attack against North Vietnam.

III–A. BREAKING THE WILL OF THE NORTH

As to breaking their will, I have seen no evidence in any of the many intelligence reports that would lead me to believe that a less selective bombing campaign would change the resolve of the North Vietnamese leaders or deprive them of the support of the North Vietnamese people. As previously pointed out, the economy of North Vietnam is agrarian and simple. Its people are accustomed to few of the modern comforts and conveniences that most of us in the Western World take for granted. They are not dependent on the continued functioning of great cities for their welfare. They can be fed at something approaching the standard to which they are accustomed without reliance on truck or rail transportation or on food processing facilities. Our air attack has rendered inoperative about 85 percent of the country's central electric generating capacity, but it is important to note that the Pepco plant in Alexandria, Va., generates five times the power produced by all of North Vietnam's powerplants before the bombing. It appears that sufficient electricity for war-related activities and for essential services can be provided by the some 2,000 diesel-driven generating sets which are in operation.

Perhaps most important of all, the people of North Vietnam are accustomed to discipline and are no strangers to deprivation and to death. Available information indicates that, despite some war weariness, they remain willing to endure hardship and they continue to respond to the political direction of the Hanoi regime. There is little reason to believe that any level of conventional air or naval action, short of sustained and systematic bombing of the population centers, will deprive the North Vietnamese of their willingness to continue to support their government's efforts to upset and take over the Government of South Vietnam. [Deleted.]

There is also nothing in the past reaction of the North Vietnamese leaders that would provide any confidence that they can be bombed to the negotiating table. Their regard for the comfort and even the lives of the people they control does not seem to be sufficiently high to lead them to bargain for settlement in order to stop a heightened level of attack.

The course of conflict on the ground in the south, rather than the scale of air attack in the north appears to be the determining factor in North Vietnam's willingness to continue.

Accordingly, as General Wheeler has pointed out, the air campaign in the north and our military efforts in the south are not separate wars and certainly they should not be regarded as alternatives.

III–B. AN EXPANDED CAMPAIGN AGAINST THE SUPPLY ROUTES WITHIN NORTH VIETNAM

It could be argued that a greatly expanded and virtually unrestricted bombing effort might substantially reduce the movement of forces and supplies through North Vietnam into South Vietnam, even though North Vietnam resolve remains unshaken. Recent prisoner interrogations suggest that 10 to 20 percent of the personnel dispatched to the south by the rulers of North Vietnam never reach the battle area—about 2 percent are casualties caused by air attack. A much higher percentage of the supplies sent south to support the DRV fighting forces are destroyed in transit by our armed reconnaissance and heavy bombing attacks. Conceivably an all-out air and naval bombardment might somewhat further increase the forces and supplies destroyed. But the capacity of the lines of communication and of the outside sources of supply so far exceeds the minimal flow necessary to support the present level of North Vietnamese military effort in South Vietnam that the enemy operations in the south cannot, on the basis of any reports I have seen, be stopped by air bombardment—short, that is, of the virtual annihilation of North Vietnam and its people. As General Wheeler has observed, no one has

proposed such indiscriminate bombing of populated areas.

III–C. THE CLOSING OF SEA AND LAND IMPORTATION ROUTES

This leaves, then, as a possible new objective of our air campaign, the closing of the sea and land importation routes in an attempt to prevent entry into North Vietnam of the supplies needed to support combat in the south. There can be no question that bombing the ports and mining the harbors, particularly at Haiphong, would interfere seriously with North Vietnam's imports of war-supporting materials. But far less than the present volume of imports would provide the essentials for continued North Vietnamese military operations against South Vietnam. As I have mentioned, estimates of the total tonnage required start at 15 tons per day of nonfood supplies. This can be quintupled and still be dwarfed by North Vietnam's actual imports of about 5,800 tons per day. And its import capacity is much greater. The ports together with the roads and railroads from China have an estimated capacity of about 14,000 tons a day.

The great bulk of North Vietnamese imports now enters through Haiphong—perhaps as much as 4,700 out of the 5,800 tons per day. This includes most of the war-supporting material, such as trucks, generators, and construction equipment but this category of supply represents only a small percentage of total sea imports. And little if any of the imported military equipment (which is estimated by intelligence sources to total 550 tons per day) comes by sea. Moreover, this present heavy reliance on Haiphong reflects convenience rather than necessity. Haiphong represents the easiest and cheapest means of import. If it and the other ports were to be closed, and on the unrealistic assumption that closing the ports would eliminate all seaborne imports, North Vietnam would still be able to import over 8,400 tons a day by rail, road, and waterway. And even if, through air strikes, its road, rail, and Red River waterway capacity could all be reduced by 50 percent, North Vietnam could maintain roughly 70 percent of its current imports. Since the daily importation of military and war-supporting material totals far less than this, it seems obvious that cutting off seaborne imports would not prevent North Vietnam from continuing its present level of military operations in the south.

Elimination of Haiphong and the two other ports as a source of supply would not, in fact, eliminate seaborne imports. Our POL experience is illuminating. Our air strikes on petroleum facilities did destroy the inshore POL off-loading facilities in Haiphong. However the North Vietnamese have demonstrated a capability to adjust their methods, and they now off-load POL drums into lighters and barges and bring the drums ashore at night. There is no evidence of a POL shortage and stocks on hand equal an estimated 120 days consumption.

The North Vietnam seacoast runs for 400 miles. Many locations are suitable for over-the-beach operations. The mining of Haiphong or the total destruction of Haiphong port facilities would not prevent offshore unloading of foreign shipping. Effective interdiction of this lighterage, even if the inevitable damage to foreign shipping were to be accepted, would only lead to total reliance on land importation through Communist China. The common border between the two countries is about 500 air miles long.

Accordingly, bombing the ports and mining the harbors would not be an effective means of stopping the infiltration of supplies into South Vietnam.

A selective, carefully targeted bombing campaign, such as we are presently conducting, can be directed toward reasonable and realizable goals. This discriminating use of air power can and does render the infiltration of men and supplies more difficult and more costly. At the same time, it demonstrates to both South and North Vietnam our resolve to see that aggression does not succeed. A less discriminating bombing campaign against North Vietnam would, in my opinion, do no more. We have no reason to believe that it would break the will of the North Vietnamese people or sway the purpose of their leaders. If it does not lead to such a change of mind, bombing the North at any level of intensity would not meet our objective. We would still have to prove by ground operations in the South that Hanoi's aggression could not succeed. Nor would a decision to close Haiphong, Hon Gai, and Cam Pha, by whatever means, prevent the movement in and through North Vietnam of the essentials to continue their present level of military activity in South Vietnam.

On the other side of the equation, our resort to a less selective campaign of air attack against the North would involve risks which at present I regard as too high to accept for this dubious prospect of successful results.

[Deleted.]

IV. CONCLUSION

In conclusion, I would like to restate my view that the present objectives of our bombing in the north were soundly conceived and are being effectively pursued. They are consistent with our overall purposes in Vietnam and with our efforts to confine the conflict. We are constantly exploring ways of improving our efforts to insulate South Vietnam from outside attack and support. Further refinements in our air campaign may help. I am convinced, however, that the final decision in this conflict will not come until we and our allies prove to North Vietnam she cannot win in the south. The tragic and long drawnout character of that conflict in the south makes very tempting the prospect of replacing it with some new kind of air campaign against the north. But however tempting, such an alternative seems to me completely illusory. To pursue this objective would not only be futile but would involve risks to our personnel and to our Nation that I am unable to recommend.

[From the Washington, (D.C.) Post, Dec. 1, 1967]

MRS. MCNAMARA: TIME MAKES THE CHOICE

(By Meryle Secrest)

A cigarette box on the round coffee table of the McNamara living room will soon have a new date inscribed on it.

The Tiffany vermeil box was given to Secretary of Defense Robert S. McNamara by his wife and three children. On the outside is engraved the Secretary of Defense seal, his name and the date 1961–.

Inside is a four-line quotation from one of his favorite poets, Robert Frost:

"Two roads diverged in a wood, and I—
I took the one less traveled by
And that has made all the difference."

"I suppose we shall have to engrave a new date on it," said Margaret McNamara with a smile that mingled pride with wistful regret. Her husband's decision to leave the Cabinet and accept the post of President of the World Bank was announced yesterday.

She had just come in from a walk in the snow with Mike, their gregarious Irish setter. Outside it was still snowing and the house was still.

Everything looked in order, from the anemones in a glass vase on the piano to the bank of books ("A Treasury of Great Poems," "Gaston Diehl—the Moderns" and biographies of John F. Kennedy) beside the unlit fire.

"How do I feel about the past seven years? It's been exciting, thrilling and sad; all the emotions you can think of. It's been a time of great interest and dedication and the feeling that Bob in some way has contributed to a terribly important time in history. But it's not always been happy. . . .

"When the news came out a few days ago, the question was whether Bob was quitting or the President wanted him to go. Neither one is correct. . . . No one chooses his time to make decisions. They are thrust upon him by circumstances, and timing, and the President's need for a nomination (for the World Bank post) were the deciding factors."

[In his statement yesterday, Secretary of Defense McNamara said that he and President Johnson were unanimous about the wisdom of his move.]

But, she insists, she did not have anything to do with the decision.

"I have never played any role in my husband's decisions because I have always felt that the most important thing is that a man be happy, challenged and satisfied in what he is doing."

[Mrs. McNamara has had a slow recovery from an ulcer operation this summer and it was rumored that her health might be one of the reasons influencing Secretary McNamara's actions.]

"I feel fine now. I have to watch what I eat, but that's good on two counts," she said, with a nod towards her slender waistline.

Mrs. McNamara said that her husband was leaving his Cabinet post with considerable regret. There were many things left undone that he would have liked to finish, she said, and indicated that a successful conclusion to the war in Vietnam was one of them.

But, she continued, they both expect their lives to be more relaxed and less of a strain than they have been for seven years. Her husband's work schedule is gruelling—he leaves the house at seven and gets home for dinner at eight, "sometimes".

"This will be a much more livable pace."

Now they will be able to do a lot more of the gallery-going they both love, including their Sunday afternoon strolls down to the Phillips Collection. And she hopes they'll be able to see a lot more plays.

Mrs. McNamara doesn't share the fear of some political observers that the Administration will take a more hawklike position on Vietnam with her husband's departure.

"These comments preclude the fact that the Administration is constantly looking for ways to negotiate," she said carefully.

As for the criticisms that have bombarded her husband since he took office:

"I think if you accept public office you should expect criticism and dissent. Bob always takes the attitude that you do the best you can with the situation and go on to the next problem. You still have to keep a sense of humor." She laughed. "I admit sometimes it's hard to do."

Christmas for the McNamaras this year will be as it has been in other years. The family gathers in Aspen, Colo., where they have been going for 12 years. They are Margie, 26, married to Barry Carter and living in New Haven; Kathie, 23, and Craig, who is attending St. Paul's, Concord, N.H.

Since the Aspen home is only used once a year, Mrs. McNamara expects to go out ahead and "put dishes on the shelves."

If she anticipates a slower pace for her husband, she also intends to take one herself.

"If I become involved in something," she said, referring to the successful Reading is FUN-damental program she organized, "I give it days and weeks of my time. I think you can spread yourself too thin."

Then one day you realize, she implied, that it has been too long since you did any of the things you really want to do.

Mr. MORSE. Mr. President, I wish to associate myself with every single word of the comments of the Senator from Montana [Mr. MANSFIELD] in regard to the McNamara resignation.

My record is perfectly clear, and I stand on every word I have spoken throughout that record in regard to the Secretary of Defense. In the beginning of the escalation of the war, it was I who first named it "McNamara's war," day after day, for I thought then and I think now that the Secretary of Defense ill-advised the administration in the course of action he recommended in the early days of the war. No man did more to raise the level of the American involvement than did Mr. McNamara.

As the record also shows, some weeks after I had repeated my description of the war as "McNamara's war" the Secretary of Defense at a press conference accepted the description. That did not mean that he agreed with the Senator from Oregon on the substance, but that he was willing to recognize his responsibility for having made this an American war.

The Senator from Oregon has never questioned the sincerity or the dedication to his point of view of the Secretary of Defense. I certainly cannot speak for the Secretary, nor can I do more than express one man's opinion of what I think developments have produced in regard to the position of the Secretary of Defense. Probably he would disassociate himself with my interpretation, but I am willing that history be that judge, too, for I think the Secretary of Defense finally came to exercise a very restraining influence upon the administration and upon the military, and that is the important thing.

The sad thing is that, wars have a way of taking on a life of their own, sometimes dragging men and nations with them *in places* and directions they do not choose to go.

I think we are about to lose his newfound restraint, and I think that is bad for the Nation. My own personal opinion is that not only the testimony of the Secretary of Defense that has been quoted in the speech by the distinguished majority leader this morning produces some evidence of that, but also there is a great deal of other evidence which shows the restraining influence of the Secretary of Defense.

My own interpretation is that Mr. McNamara lost control of the war he did so much to set in motion. Perhaps he has come to recognize that the continuation of the upping of this escalation is going to produce results that will not be in the interests of the security of the Republic. Therefore, I am saddened to find this restraining influence leaving the Department of Defense because I have no reason to believe that a new restraint will be substituted for it. My fear is that quite the opposite will be the case and we will end up with an escalated war which will eventually bring us into a massive war in Asia and involve us in a war with China. From this war we will never emerge as the victor except in military engagements, and we will be the loser when it comes to permanent peace, vis-a-vis the United States and Asia.

Mr. President, I regret that the Secretary of Defense will be accepting the presidency of the World Bank, not because he is not highly qualified for the position, but because the very nature of the position, of course, will close his lips as far as being able to exercise the influence I think he should keep himself in a position to exercise in respect to American foreign policy. I think that here is a voice and a mind that should continue to be brought to bear upon American foreign policy. As the president of the World Bank, we all know it will not be considered appropriate for him in that position to involve himself in the foreign affairs of this country. I think that will be a great loss. I think it will be a great loss to the President.

My own view is that, of course, the President is entitled to have in his Cabinet men who share his point of view in the respective posts they occupy. We know there is a close personal relationship between the Secretary of Defense and the President. You can differ with the President and still maintain a close personal relationship. I can testify to that.

Mr. President, there is a very close personal relationship between the President and the Secretary of Defense. As he goes into the position of presidency of the World Bank I am saddened when I contemplate that he will be removed from the American people in a very real sense as far as being able to speak out, as he should be able to keep himself in a position to speak out with respect to American foreign policy.

No one can understand the Senator from Oregon in regard to American foreign policy unless one understands this great and deep conviction and concern of mine that if my country continues to rim the world with American military might, setting up a massive military line around the world for us to use to dominate the world militarily, the end of the next 100 years will find us not a second-rate or third-rate power, but a fourth-rate or fifth-rate power because we will be defeated by the world, for we cannot control the world.

No empire, including the United States—and we are setting up a military empire—will be allowed by the rest of the nations of the world to set itself up unilaterally as the military policeman of the world and then try to tell the world what its course of action shall be, vis-a-vis military posture. That is my great concern.

Mr. President, I regret that there is a danger that we are losing a powerful voice and a great mind that could help direct new foreign policy for the United States that would replace or change the trend of the present foreign policy. The trend of the present foreign policy may win elections, but, may I say most respectfully to all in my Government, "You had better stop thinking about the next election and start thinking about the next century." If we do that, we will keep, in a position where he can speak out, a man with one of the great minds in this country and who has so much to offer in helping to mold a new foreign policy for the United States, and that is the Secretary of Defense.

ORDER OF BUSINESS

Mr. TALMADGE. Mr. President, I ask unanimous consent that I may proceed for 8 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. DOLLAR DEFICIT AND THE GOLD DRAIN

Mr. TALMADGE. Mr. President, during the past two decades, the American Government has been spending money—both at home and abroad—as though money were going out of style.

And the world's most important currency, the American dollar, may very well do just that, if the United States persists in spending far beyond its means.

For 16 of the past 17 years the United States has suffered dollar deficits in its international payments of approximately $2 billion a year on the average, for an overall total of $34 billion.

In domestic spending, the Federal Government has mounted multibillion-dollar deficits year after year after year. Current estimates are that we will end this fiscal year somewhere between $18 and $30 billion in the red.

Mr. President, I ask, Is it any wonder, then, that confidence in the American dollar has reached the lowest ebb in a generation?

Is it any wonder that foreign governments are continuing to trade their dollars for gold at an alarming rate?

Is it any wonder that we find ourselves somewhat vulnerable to De Gaulle's attacks on the dollar and that we are stung by his blatant attempts to instigate a "gold rush" to weaken the American economy even further?

We have witnessed this situation developing for a number of years, and I submit that we should not now feign surprise or wonderment.

What we see taking place is the natural and inevitable result of sending more money abroad than we receive in return, and of spending more at home than we can afford.

Continuing deficits in our balance of payments and Federal budgets have undermined confidence in the American dollar, which in turn has led to a critical drain upon U.S. gold reserves.

This condition has come about because for more than two decades, the United States has cast itself in the almost solitary role of financier, welfare agency, and defender for most of the world.

The United States has administered a lavish foreign aid program to friend and foe alike. Since the conclusion of World War II, America has loaned or given away—mostly the latter—more than $122 billion to about 124 countries scattered all over the face of the earth.

The United States has undertaken virtually singlehandedly the defense of the free world. The maintenance of troops in Western Europe alone costs more than $2 billion a year.

And, at the present time, the United States is supporting a $2 billion a month war in Vietnam, without much assistance and very often hindrance from our so-called allies.

In short, the United States has pursued a domestic and foreign spending policy almost as if there were no limits to our resources. But there are limits, even for the richest and most powerful nation in the world, and the strain upon the American economy increases with the passing of each month.

The strength of the dollar is being questioned.

In just the past 10 years, U.S. gold reserves have shrunk from $22.9 billion to less than $13 billion. At the same time, the gold hoard of the countries of Western Europe has climbed from $9.2 billion in 1958, to more than $20 billion today.

Of the gold held by the United States, only about $2.9 billion is so-called free gold with which to meet potential foreign claims of some $30 billion.

This is not a situation calculated to assure security for the American economy.

It is a continually worsening situation that has been aggravated even more by devaluation of the British pound.

However, the British devaluation has focused renewed attention on this problem and hopefully, at long last, our Government will start doing something about it.

Perhaps now there will come an end to foreign spending on such a grand scale, and that sensible priorities will be established for domestic spending programs.

It is of more than passing interest to me that the principal critic of the dollar and the would-be leader of a run upon U.S. gold is the Republic of France—which has benefited the most from American foreign aid.

Since 1945, France has been on the receiving end of more than $9 billion in American economic and military aid. This is considerably higher than that received by any other nation benefiting from U.S. generosity.

It should likewise be of more than passing interest to our Government that De Gaulle's France still owes the United States some $7 billion in World War I debts.

France seems to have forgotten this debt, and De Gaulle has demonstrated a deplorable lack of gratitude. Considering massive American assistance and our soldiers who died to help defend France in two world wars, and in view of the fact that France today would not be enjoying an economic boom were it not for the U.S. postwar aid, France certainly appears to be biting the hand that has fed and protected her for so long.

France has taken the lead in converting dollars for U.S. gold. She has increased her reserves from $1.6 billion in 1960 to some $5 billion this year, a holding second only to that of the United States. The amount of dollars France has traded so far for American gold could have paid off more than 60 percent of French indebtedness.

While other nations, such as Great Britain, still owe the United States World War I debts, De Gaulle alone seems intent on building up France by tearing down the United States.

In view of this hostility and in the interest of shoring up the American economy, our Government should increase efforts to require France to settle her debts.

This would be one step in the right direction toward alleviating the balance-of-payments deficit and gold drain.

While we are at it, the United States needs to serve notice to the rest of the world—and especially to Western Europe—that America does not intend to bear the sole responsibility for the defense and welfare of the free world.

We do not mean to continue spending ourselves into bankruptcy, while other prosperous nations lie in the lap of luxury at the expense of American taxpayers.

ARRESTS FOR INVESTIGATION

Mr. MORSE. Mr. President, in recent years, on a number of occasions, the editors of the Washington Post have written one great editorial after another in support of the fourth amendment to the Constitution and the protection of the precious constitutional rights of the American people which are connected with the base of American criminal jurisprudence; namely, the presumption of innocence and the requirement of the Government to establish guilt.

This morning, another brilliant editorial is published in the Washington Post under the heading "Arrest for Investigation."

The editorial states:

A Senate District subcommittee has approved its own version of arrests for investigation. It would permit police to hold suspects for up to three hours and, with notice of their right to remain silent and to consult an attorney, to interrogate them wihout taking them before a magistrate or filing a formal charge against them. Proponents of the bill solemnly pretend that this does not constitute an arrest and that it therefore need not be justified by a showing of probable cause as the Fourth Amendment to the Constitution requires.

Mr. President, there is no question about the constitutional right of every person to be brought without delay before a committing magistrate following an arrest. Of course, an arrest cannot be justified as legal unless there is probable cause, and if there is probable cause, there is not the slightest justification for not taking the arrested person before a committing magistrate.

I want the record to show that, in my opinion, the proposal of the committee is clearly and blatantly unconstitutional. It is a violation of a precious safeguard that every American is entitled under the Constitution to have preserved; namely, that no police officer can take a person without an arrest and confine him and subject him to the various kinds of third degree which police departments always develop if the guarantees under the Constitution are not protected.

So the editorial goes on to say:

Those who support this evasion of a vital constitutional safeguard forget the evils which the Fourth Amendment and the rule of prompt arraignment were designed to prevent. Arbitrary arrest and detention by the police is the first tool of tyranny.

May I digress from the editorial to say it is the technique of a police state, not a democracy.

The editorial continues:

The bitter experience of the American colonists with general warrants and with quixotic seizures led them, when they established their own government, to insist upon the interposition of a judicial officer between policemen and citizens. The shocking revelations in the Wickersham Commission report of widespread third-degree practices in police stations all over the country during the early years of this century led to the adoption in every jurisdiction of laws requiring that arrested persons be taken before a magistrate without unnecessary delay.

Mr. President, memories are short. So many in the Congress have forgotten the findings of a whole series of crime surveys in this country not so many years ago, of which the Wickersham report was the leading report, but it was followed by one survey after another. Long before I came to the Senate I participated in crime surveys. Long before I came to the Senate I was editor in chief of five volumes written for the Department of Justice, under the leadership of Homer Cummings, dealing with the problem of criminal law enforcement in this country.

The editors of the Washington Post are so dead right. May I say it is in times of crisis, it is in times of great social unrest, it is in times such as these, when we have crime on the streets, that the test as to whether or not a constitutional system will be preserved is before us. It is in time of great trouble that it is so important that constitutional rights be guaranteed.

The argument is made, apparently, that we cannot have law enforcement unless we adopt procedures which cannot be reconciled with the Constitution, and therefore we should ignore those constitutional guarantees. I plead once more in the Senate this morning that we do not take the course of action the committee is about to recommend to us, that we should, in effect, tear up the fourth amendment, that we seek to give to police departments in this country unchecked power; because if we do, we are going to lose our precious safeguards that this juridical system of ours is supposed to guarantee to everyone. We cannot have law enforcement without constitutionality. We can have law enforcement without giving to police departments unchecked power. This is what the editors of the Washington Post are pointing out.

I am proud to associate myself with this editorial policy of the Washington Post, as I have in the past, because these are times when free men must not only speak out in defense of freedom, but free men must insist that Congress not pass legislation that violates their constitutional rights; and this proposal will do that very thing.

I ask unanimous consent that the entire editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ARRESTS FOR INVESTIGATION

A Senate District subcommittee has approved its own version of arrests for investigation. It would permit police to hold suspects for up to three hours and, with notice of their right to remain silent and to consult an attorney, to interrogate them without

taking them before a magistrate or filing a formal charge against them. Proponents of the bill solemnly pretend that this does not constitute an arrest and that it therefore need not be justified by a showing of probable cause as the Fourth Amendment to the Constitution requires.

Those who support this evasion of a vital constitutional safeguard forget the evils which the Fourth Amendment and the rule of prompt arraignment were designed to prevent. Arbitrary arrest and detention by the police is the first tool of tyranny. The bitter experience of the American colonists with general warrants and with quixotic seizures led them, when they established their own government, to insist upon the interposition of a judicial officer between policemen and citizens. The shocking revelations in the Wickersham Commission report of widespread third-degree practices in police stations all over the country during the early years of this century led to the adoption in every jurisdiction of laws requiring that arrested persons be taken before a magistrate without unnecessary delay.

These restraints on the police undoubtedly make law enforcement more difficult than if the police were allowed to act as they pleased. But they are the price of liberty. They mark the essential distinction between a free society and a police state. It is not necessary, or prudent, to forego fundamental rights to fight crime effectively.

COMMENT ON DEAN ACHESON'S ADVICE ON VIETNAM

Mr. McGEE. Mr. President, for those who might have missed former Secretary of State Dean Acheson's interview Sunday night on the Public Broadcast Laboratory program over educational television, today's Washington Post carries an excellent editorial commenting upon Mr. Acheson's cogent advice with regard to Vietnam.

His parting advice was that this country really has to see this thing through, even though he held out little hope for what so many dream of—a negotiated settlement. More likely, said Mr. Acheson, the Communists will persist until they determine that their efforts are fruitless. Then they will quit, as in Berlin and Greece. Nevertheless, Mr. Acheson agrees that should the enemy be willing to negotiate, negotiate we must. And he speaks out in favor of military efforts scaled to the level of enemy operations—thus leaving the door open for a mutual deescalation or curtailment of hostilities at some point.

Mr. President, one who has been through the international mill, as has Dean Acheson, has considerable credentials for speaking out, even for prophesying to some degree, as he has done in damping hopes for meaningful negotiation with the enemy in Vietnam. His views are, indeed, worthy of much note and his conclusion that we really have no choice but to persist in order to convince the Asian Communists that their efforts are in vain should be considered by all. I ask unanimous consent that the Washington Post editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ADVICE ON VIETNAM

Dean Acheson's Sunday evening interview on the Public Broadcast Laboratory program was enriched by the wide knowledge of a public man who has held office and who has been liberated from the inhibitions that constrict public men who hold office—or hope to hold it again. His countrymen are indebted to him for a world view that can only come from statesmen who are young enough to remember the past and old enough not to seek an opportunity to repeat it.

It is to be hoped that both the defenders of Administration policy in Vietnam and its opponents will weigh carefully the former Secretary of State's warnings about negotiation in Vietnam. Defenders and critics are contributing clouds of rhetorical incense before an icon neither has examined carefully enough. Mr. Acheson believes that "there is no possibility of negotiating our way out of Vietnam." He thinks such an opportunity does not exist. This is an observation that lies in the area of prophecy, and it might be mistaken. But there can be no mistake about his warning that "negotiation as conceived of by the Communists and as conceived of by us" are different things. They regard negotiations, he warned, as a means by which they can "disadvantage somebody in the course of a war." They look upon them as a method of separating allies or causing domestic trouble at home.

He recalls that in his experience with Communists, negotiations "never preceded a settlement or got anywhere." He reminds his countrymen that in Greece as in the Berlin Blockade "they carried on operations until they became unproductive and stopped." He feels that in Vietnam the same thing will happen. "When the Communists feel that this effort has not succeeded, they will stop the effort." He is firmly of the belief that "they don't want to negotiate." And he finds that "fine" and hopes they stay that way.

Perhaps the former Secretary is, as he acknowledges, taking counsel of his doubts and fears. He agrees that we must negotiate if they wish to do so, but he hopes they will not. And the grim reality is that any remaining confidence in negotiations must be put down to a triumph of hope over experience.

At the same time, the former Secretary of State put forward an extremely interesting suggestion that the application of military force against North Vietnam be correlated with their operations. The opportunity to diminish the scale of the fighting may not arise, unless they first curtail their operations. But if they do show signs of diminished exertions, it is his suggestion that we show by reciprocal curtailment of our effort that there is a way out. If there is any indication of a wish to "ease it off," we should correlate our activity with it.

Equally useful is the Secretary's warning against a repetition of the tactics used in Korea when General MacArthur crossed the 38th parallel and invaded the north. He cites the push to the narrow neck of North Korea as a "terrible disaster" and believes it to be "exactly what one ought not to do" in Vietnam.

The parting counsel of the former Secretary, as to Vietnam, is that "we really have to see this thing through."

The will to do it can only be impaired by having either the Government or the critics conjure up illusory hopes of some pacific alternative which is romantically desirable but realistically unattainable.

SHARPENING THE KNIFE THAT CUTS THE PUBLIC PIE

Mr. MONDALE. Mr. President, Mr. William Gorham, Assistant Secretary for Planning and Evaluation in the Department of Health, Education, and Welfare, heads one of the most exciting endeavors presently underway within the Federal Government. He is, as the Senate knows, responsible for the implementation of the planning-programing-budgeting system within the Department of Health, Education, and Welfare.

Although somewhat impeded by its fearsome title, the PPB system was conceived to bring a greater degree of rationality to the most important decisions a government must make; namely, which of competing public needs will be met by the immediate and long-range allocation of limited public resources. PPBS is itself limited both by the shortage of adequately skilled analysts and by an incredible lack of simple statistical data which is essential to the formation of rational choices between programs and policies. The limitations of PPBS and the institutional framework within which it must operate are rather clearly drawn in a recent article by Elizabeth Drew which I placed in the RECORD some weeks ago.

Whatever its shortcomings, PPBS is a commendable effort. Those men now striving to make it a useful instrument for shaping public policy are performing a vital public service and their observations about the progress being realized warrant the attention of every public official and citizen.

Recently, Secretary Gorham presented an excellent paper in this vein to the Seventh World Congress of the International Political Science Association in Brussels. I ask unanimous consent that Secretary Gorham's paper, entitled "Sharpening the Knife That Cuts the Public Pie," be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MONDALE. Mr. President, as Senators know, I have been concerned for several months about the manner in which various social programs of the Federal Government are developed and executed. Last February, I introduced S. 843, the Full Opportunity and Social Accounting Act, in order to bring greater rationality to the process by which choices between programs and policies are made. That proposal was also introduced because I believe that all Americans and certainly members of the legislative as well as the executive branch of our Government deserve and need to know the facts, to the extent they are ascertainable, about the social state of our Nation and the relative costs and contributions of competing policies for improving our social health.

S. 843 has received considerable attention and widespread support. I am hopeful that it will be enacted because I believe it will serve the ends envisioned by the PPB system while simultaneously involving both the Congress and the country in the difficult and demanding process of shaping national goals and developing suitable, realistic programs for attaining them.

Of particular significance, I believe, is that portion of Secretary Gorham's paper detailing the manner in which the need for public programs of a specific sort is perceived by decisionmakers in both the legislative and executive branches. One of the persistent problems in perceiving public needs is the lack of visibility many of our serious social problems have. My proposal, S. 843, is geared

to give these unmet needs clear visibility by means of an annual social report from the President which would be considered in depth by a Joint Social Committee.

This institutional arrangement would parallel the treatment given the annual economic report at the present time. It would, I believe, greatly assist those efforts now underway, such as PPBS, which are dedicated to highlighting unmet public needs and developing rational policies for meeting them.

EXHIBIT 1

SHARPENING THE KNIFE THAT CUTS THE PUBLIC PIE

(By William Gorham, Assistant Secretary (Planning and Evaluation), U.S. Department of Health, Education, and Welfare, before the International Political Science Association, Seventh World Congress, Brussels, Belgium, September 19, 1967)

I. INTRODUCTION

Only novelists can conceive of a society so rich that its aspirations for public goods and services fall short of the resources that the society is willing to devote to those aspirations. There are and probably always will be more countries to protect or arm oneself against, more shores to be spanned, vaccinations to be given, children to be educated, rivers to be tamed, planets to be visited, than there are real resources in a nation which can be devoted to all of these purposes.

Yet by one means or another choices are made. In most countries the process of choice among public goods is a combination of the rational and irrational, the political and the economic, the deliberate and the accidental. In the end there is a government budget. The budget *total* reflects the decisions made about how to allocate resources between public goods and private spending power.[1] Within the budget total the amounts devoted to various types of programs reflect the nation's decision among competing public goods.

Periodically our government—perhaps most governments—expresses concern about the adequacy of its methods for arriving at "good" resource allocations and decides to reassess them. The United States has undertaken several major examinations of the mechanism for budgeting in the Executive Branch of the government. The most famous of these have been the two Hoover Commissions. The most recent attempt to improve the resource allocation process goes under the name of planning, programming, and budgeting systems (PPBS), initiated by President Johnson in October 1965. The principal features of the PPB system are a long-term (five-year) plan, a method of linking the plan to the annual budget and legislative processes, and, most importantly, an improved information and analytical basis for the decisions embodied in the plan and the budget.

This paper is principally about the application of the planning, programming and budgeting system in the United States Government Department which has the largest Federal responsibility for social welfare programs. I report to you today some of my own reflections based on two years' developing and institutionalizing the planning, programming and budgeting system in the Department of Health, Education, and Welfare.

The reader should be forewarned of several limitations. First, the writer is a practitioner, not a theoretician. I describe the practical problems as I have encountered them, the limitations and possibilities as I see them, and leave to others the larger significance and long-term implications of the enterprise described. Secondly, although the President's directive provided the objective and the marching orders for the planning, programming and budgeting system, the system (if indeed we should yet aggrandize it with such a pretentious word) is still very much under development. We are in the early and I believe the steep part of our learning experience. The mold is being changed as I speak. Thirdly, the paper emphasizes the role of planning and analysis in the budgetary decision process; it touches on the decision-making process itself only tangentially.

Finally, my experience is parochial. I will be talking about what I have observed in the United States and will hope that it has some relevance to similar problems in other countries. It is my impression that many countries are now consciously coming to grips with the problem of improving budgetary allocations. The idea of planning is not new; multi-year plans have been common in many countries especially in the socialist world for a long time. But the idea of making explicit the basis for budgetary choice and using analytical tools to help mold the budget is new and my impression is that we are all in about the same stage of groping for good ways of doing it.

I am going to be talking mainly about the process of allocating resources among public goods and services, but there is a prior question: how does a nation identify its public needs?

II. PERCEIVING NEEDS FOR PUBLIC PROGRAMS

Nations perceive their problems and needs in many ways: by comparing their condition with that of other nations; by accepting the insights of charismatic leaders; by reading the persuasive prose of socially sensitive foreign observers such as Gunnar Myrdal or domestic ones such as Michael Harrington or even, on occasion, the staid writings of scholars; by hearing politicians speak of the sad state of things under the incumbent and promise better days; by more or less spontaneously observing some changes for the worse, such as an increase in air pollution; by enduring cataclysms, such as epidemics or riots.

And yet we know that many needs go unrecognized that are important, but in some sense invisible. A society can have needs it doesn't know about; that is, things that it would want or want more of if it were better informed. Perhaps they should be called perceivable needs.

Whether a public need is visible or not depends on many factors. One such factor is the news-worthiness or potential drama of that need. The need for space research is dramatized and publicized by what is, or is taken to be, the space race and by the excitement and danger of manned space exploration. The tabloids also remind us almost daily of the problems of crime and sexual misadventure. The society may need a lower rate of infant mortality as much as it needs better space spectaculars and crime control, but this need may not be perceived as a public problem simply because it gets no publicity.

A need may also be more easily perceived if it results in immediate and simple pain rather than long-run and complex difficulties. The problems posed for a nation by shortcomings in its educational systems or in its pure research may be underestimated because they emerge slowly and gradually and are exceedingly complex.

Another important factor is whether a given aspect of reality is conveniently subject to invidious international comparison. If a nation's military forces or olympic athletes are not as good as those of nations of similar status this is usually perceived as a public problem. If one nation has surpassed another in the beautification of its cities or the care of its children this is less quickly noticed.

So far we have been talking mainly about needs for public goods which presumably benefit all or most of the population. But many important public goods initially benefit or seem to benefit only certain groups in the population. How do these groups convince the majority or an effective minority that their need is worthly of public attention and action?

Some group needs get attention because they are voiced by organized associations, whereas other groups have not developed machinery for making their complaints public. The few big firms that want to raise tariffs can easily organize to state their case, but the consumers who want lower prices cannot so easily cooperate in their common interest.

An important factor in determining the extent to which certain types of group needs are recognized is the degree of segregation in a society, whether that segregation be on racial, income or social lines. The slum dweller does not live next to the affluent suburbanite. He is, on the contrary, usually crowded into places where no one else wants to go and which the affluent citizen can often by-pass altogether by taking the super-highway. The "invisible poor," as one American writer has called them, do not make speeches or write letters to the newspaper. The poorest of the poor do not even write. The effect of all this is to obscure from the view of the rest of society the real needs of its most disadvantaged citizens.

Since some public needs are more visible than others, the government itself, can provide a more balanced and complete picture of the nation's needs by collecting and publicizing information on the "social" conditions of the nation. Governments have been doing this for a long time, publishing statistics on infant mortality rates, the income of the rich and the poor, crime statistics, and so forth. Increasing attention is being focused on this important function in our government. We have begun a program of research and thought about what we rather loosely call "social indicators." By "social indicators" we mean a comprehensive set of measures (or if measures are unavailable at least indications) of social change. It is our hope that the patient collection, selection and analysis of social and economic statistics can, when combined with the judgment of sensitive and experienced observers of different aspects of a nation's life, provide reasonable if rough indications of the magnitude of socio-economic problems and the extent to which there has been progress in dealing with these problems.

In some areas it is practically and conceptually easy to provide appropriate indices of status. One such area is that of the quality of the air we breathe. We have begun to measure systematically the degree and character of air pollution. These measurements are in physical terms, and can be combined with medical and other scientific advice on different degrees of pollution in the determination of societal needs. It is probably also possible to make useful estimates of the losses people sustain because of smog, since the extent to which home values are affected by the density of smog is subject to measurement.

In other areas such as health and education plenty of statistics are already being collected but they are not always the right ones for giving an impression of social change and they are not always easy to interpret. In health we have plentiful statistics on mortality and morbidity but almost nothing which will tell us whether people are significantly healthier than they used to be. In education we know a great deal about the resources being used to teach children,

[1] With a central government budget, which is discussed throughout this paper, the budget total reflects society's decision about resources to be devoted to goods and services provided by the central government as opposed to those provided by all other levels of government as well as private sources.

but almost nothing about what is accomplished. Do children in fact learn more now than they used to? We think so, but we have no way to know.

Our work on social indicators has been underway for about a year and has enlisted the support of some of our most distinguished social scientists. It is too soon to report substantive findings, but I can convey to you the guarded optimism of a number of our government and academic skeptics.

If we succeed in putting together a good picture of the nation's socio-economic health and the trends in that health the next question will be how to give this picture the widest possible visibility. One possibility is the issuance of a "social report." Such a report, which would contain both statistical information and qualitative assessments of socio-economic problems, would serve as a periodic inventory of the social state of the nation.

Right now we do not have a set of social indicators to provide a comprehensive shopping list nor do we have a reasonably well-articulated set of social goals. We have national areas of concern, some consensus on the seriousness of some situations, and continuing support for certain kinds of activities. In spite of the incompleteness of the documentation of public needs, it is clear that those that we do recognize far exceed the resources available, and the planner if he is to be useful in budgetary formulation has to address the question of how best to allocate limited public resources among all these competing ends.

III. THE BUDGET IS THE THING

The budget is the main instrument through which those who govern a country express their priorities for governmental action. It channels the real resources to meet specified public needs. Annually in the United States the Federal budget is developed by the Executive Branch of the Government and sent to the Congress for approval. Congressional approval of the Executive budget is by no means automatic even when the same political party controls both the White House and the Congress. The President's budget goes to Congress in January every year and Congress spends the next six to nine months arguing, debating and discussing almost every item in it. While the President's budget carries considerable weight, it is always amended and revised by Congress, sometimes lightly, sometimes drastically. What emerges from this unique political system is an annual budget which reflects the priorities of the President as modified by the conflicting priorities of areas and interest groups which find their expression in Congress.

The planning, programming and budgeting system is, at present, a tool for improving the capacity of the Executive Branch of the Government to plan and through planning to develop a budget which represents an effective use of national resources to meet perceived public needs.

In theory the Executive Branch could reexamine its priorities every year and make drastic alterations in the budget reflecting changes in perceived needs or effectiveness of programs in meeting those needs. In fact, however, each year's budget looks a great deal like the last year's.

There are several reasons why drastic changes in budget allocations are so rare. First, those who provide most of the input to a budget are those who administer the programs and they tend to fight for those programs, as all good bureaucrats should.

Second, in a country as basically anti-government as the United States, most governmental programs come into existence only after a hard fight on the part of the Executive to muster support from many different interests. Once the fight has been won for a particular program the Executive is reluctant to try to change the program or substitute a new one and risk losing the support of some of the parties to the original hard-won compromise. For example, after a generation of bitter debate a substantial program of Federal aid to elementary and secondary education was passed in 1965. The Act focused aid on low-income children and included those in private schools. It probably passed the Congress only because it attracted the support of three different constituencies: those whose concern was for the poor, those who saw the Act as a first step toward wider Federal aid to education, and those who wanted to establish a precedent for Federal aid to church schools.

Third, once a program is in operation it tends to attract a vocal constituency of beneficiaries. Attempts to reduce or eliminate a program bring loud cries of anguish. In the 1967 budget proposals the present Administration called for a reduction in a program which provides financial assistance to local school districts serving a large number of children of Federal employees on the grounds that a more generous program of aid to elementary and secondary education had recently been passed. School districts receiving benefits under the old program would get more under the new. So unpopular was the Executive's recommendation to cut out the old program that not a single Congressman could be found to introduce the Administration's bill, although some privately admitted the "rationality" of the Administration's recommendation.

Not only is it hard to cut, but a modest amount of growth is expected in most programs. At least during the tenure of one Administration political commitments to expand the size of existing programs constrain opportunities for major new programs or substantially altered allocations. All of this leads to what Kermit Gordon, a former director of the Bureau of the Budget, has described as the blight of incrementalism in budget formulation: ". . . the sum of money allotted to a program this year will tend to be based on what the program received last year, plus or minus a small amount determined by overall budgetary guidelines, a 'feel' for broad priorities, workload indicators, productivity estimates, tactical judgments, and other such partial or shaky considerations."

If there is so little room for change one might ask: Why bother? Why go through an elaborate and difficult process of assessing priorities and evaluating programs in order to come up with a budget which will inevitably look very much like the budget for the year before?

The answer is that things are not as bad as they seem. First, there are exceptional years when the magnitude of discretion is relatively large because public desire for new or expanded social programs is sufficiently strong to support significant increases in the Federal budget. For example, during an eight-month period in 1965 the Administration proposed and the Congress adopted at least 30 major pieces of legislation establishing new programs or significantly expanding existing programs administered in whole or in part by the Department of Health, Education, and Welfare. The programs which resulted from this activity, frenetic by the standards of most previous Congresses, touched every major segment of the population: the young with education acts and a juvenile delinquency program; the old with Medicare and the Older Americans Act; the unemployed and the underemployed with expanded vocational training and retraining programs; the poor with health and welfare and anti-poverty programs; and the general population with air and water pollution control and health research.

1965 was an unusual year, we have not had such a year since. But if the Vietnam war should come to an end or we should be able substantially to reduce our commitment there, very considerable resources would suddenly become available which could be devoted to public programs in the domestic sphere.

A second reason why rational budgeting is worth the effort is that even little changes add up over the years. Even if only 5 to 10 percent of the budget can be considered "free money" available to be allocated to highest priority programs, an administration which does so allocate over a four to eight year period can change the whole budget very substantially.

Thirdly, priorities need not be expressed only through adding new programs or cutting back on existing programs. It is often possible to re-orient and redirect existing programs to a considerable extent. In particular, facilities and services can be located in areas of highest need. The recent riots in major cities have lead to an administration-wide re-examination of existing programs to see whether more resources cannot be put into improving life in the central city ghetto.

IV. PLANNING AND BUDGETARY DECISIONS

The word "planning" in the United States often suggests a rather esoteric activity. Planners are viewed as people who look down the dimly-lit road of the future and make predictions or projections of things to come. They are not intimately concerned with the decisions of today.

The U.S. Government has never had a Planning Agency or "a plan." Some individual agencies have had planning offices, but most of them suffered one of two fates: either they planned and nobody listened (the plans were not translated into decisions) or they did not plan (they worked on current problems instead).

The major contribution of PPB is that it has made forward planning a required activity in all Federal agencies and, more important, it has provided a mechanism for translating plans into current budgets. PPB reflects a recognition that, to be more than just an enjoyable exercise, planning must be woven into the fabric of the real concerns of an agency—and nothing is more palpable to administrators than their budgets.

Briefly, the PPB procedure as applied in my Department involves:

1. Annual review and updating of a five-year plan in each major area of our responsibility (health, education, social services and income maintenance).

2. Use of the first year of the plan as the forthcoming year's budget.

3. Widespread involvement of administrators of programs in the planning process.

The "five-year plan" is ephemeral—always tentative, always subject to change and, indeed, probably always changing in some details or in some major ways. As new needs are perceived, as new information or analysis becomes available, as ideas mature and develop, plans will change. Preparations for the annual budget require the temporary hardening of a plan. The budget is drawn off, tempered by a number of important political and other factors and emerges as the President's proposed budget. The plan is free to be altered, updated, and improved in anticipation of the next budget year.

V. A PROGRAM PLAN STRUCTURE

The "program structure" is the framework for the five-year plan. It is sufficiently broad to encompass all existing programs of an Agency and is organized in a way which facilitates planning.

Government organizational units were not organized for rational planning. My own Department, administers over 150 programs, all related in some way to the broad categories of health, education, and welfare. Responsibility for programs affecting the same broad goal are lodged with several different agencies in the Department of Health, Education, and Welfare and outside of it. For example, consider the provision and financing of health services to various groups of the population.

Many health programs fall under the aegis of the Public Health Service—one of the agencies of HEW—but several other agencies are responsible for delivery and financing of health services to specific groups in the population. Maternal and child health programs are administered as part of the Children's Bureau programs. Funds are available from the Office of Education to provide health services to economically disadvantaged school children. Responsibility for the program of health insurance and medical care for the aged falls to the Social Security Administration (an agency normally concerned with income maintenance programs). Moreover, agencies other than my own are in the act; the Veterans Administration operates hospitals and nursing homes available to veterans and their dependents; the Office of Economic Opportunity, our Federal anti-poverty agency, provides funds for health projects directed at the poor of all ages.

Under these circumstances, the program structure necessary to implement effective planning must exhibit a healthy disregard for organizational lines. It must be flexible enough to allow manipulation of information in several dimensions; by major purpose or objective (health vs. welfare service vs. education); among various beneficiary groups (the old vs. the young; the poor vs. the general population; urban vs. rural); between capital investments and consumption. Such a multidimensional approach facilitates understanding the relationships of programs to each other as well as their relationship to overall purposes or objectives. Let me illustrate with the structure we have developed for health.

The three major categories are the development of health resources, the prevention and control of health problems, and the provision of health care.

Within the development of health resources our programs are next analyzed into four categories: increasing bio-medical knowledge (including bio-engineering and behavioral science), increasing the health manpower pool (physicians, nurses, dentists, and allied professionals and technicians), providing facilities and equipment (hospitals, nursing homes, rehabilitation facilities and modernization), and improving the organization and delivery of health services. This last category includes the Department's new Research and Development Center for the delivery of health services, Regional Medical Programs for organizing medical centers, hospitals, and physicians, Community Mental Health Centers Program to effect major changes in the nature and location of the treatment of mental diseases, and Comprehensive Health Planning, the support of broad systematic planning by our States.

The Prevention and Control of Health Programs has three major sub-categories:

1. *Disease Prevention and Control* which contains communicable disease control programs such as tuberculosis and syphilis, and detection programs for catching cervical cancer in its early stages. The most detailed categories are closely tied to the International Classification of Diseases.

2. *Environmental Factors Affecting Health.* Programs with a main objective of eliminating or reducing contaminants in the environment that pose a health hazard. These programs focus on the contaminant and the environmental media rather than the specific impairment because the relationship between the health impairment and the contaminant is not direct or too difficult to evaluate. Subcategories are such items as air pollution, chemical agents, radiation, and solid wastes. Still further subdivision breaks air pollution into sulfur oxide, carbon dioxide, and other gases and particulates. Radiation hazards are divided amongst radionuclides, medical x-rays and industrial x-rays.

3. *Factors Affecting Consumable Products.* Programs with the primary objective of eliminating from commerce products which have defects that are likely to affect the health and of the consumer. Here we deal with items such as food, drugs, biologicals, and cosmetics. These in turn are broken down into problems of health, sanitation, and economics (cheating).

The last major category is the Provision of Health Services. These are broken into three groups:

1. *Direct services.* Where care is provided by our Department, such as the Indian Health Program.

2. *Financing services.* Programs having as a primary objective provision of financial assistance to individuals to help pay the cost of health services. These programs include direct payments to vendors or other financial support for health services for the medically needy.

3. *Health services support for special groups.* These programs provide for increased health services for a population group with general needs which are not being met through existing private channels. Programs aid in establishing and operating centers to provide health services for these special groups. In this category are programs such as those for mothers and children and migrants and other groups where the Federal government makes grants to States or medical institutions to assist in establishing and operating needed services for a particular population.

Programs are identified and related to one another in several dimensions. A special disease coding permits us to link research activities to prevention and control programs. Programs are also coded by target groups, so that we may, for example, see all of the health programs addressed to poor children, regardless of whether they are financing, control, or special support programs.

VI. HOW ANALYSIS HELPS

Requiring a plan and using that plan in developing an annual budget, without question, tends to improve the quality of the budgetary decisions. The first round of planning under the new PPB system last year engaged the attention of the top administrators of my Department. They focused on the right sets of questions and addressed explicitly the priority issues rather than letting them be decided implicitly. Moreover, virtually everyone involved sharpened his understanding of the issues and became more aware of the value of information in reaching informed judgments.

But more than a system has been sought with the introduction of PPB. Beyond bringing into focus the fact of choice the system aspires to contribute to the sharpening of objectives. It invites the examination of existing and new alternative programs aimed at achieving these objectives and in this examination it stresses the importance and value of specific quantitative comparisons.

How much and the kind of contribution that analysis offers to decisionmakers varies with the character of the choices in question. And here we come to the heart of this paper—the possibilities and limitations of analysis in improving the quality of decisionmaking.

The role and the limitations of analysis can perhaps be best understood by illustration. Let us review the kinds of allocations made in a federal government agency like my own. First a word about the size of our programs. Our appropriations in 1967 were $12.5 billion in program funds and we oversaw $25 billion in transfer payments. In most activities, we are the junior partners—junior in authority and fiscal contribution—both to State and local governments and to the private sector. Last year, for example, in health we spent $5.7 billion; the State and local governments spent $5.2. This compares with $32.1 billion of health expenditures in the private sector. In education, our share was $5.8 billion, State and local governments $26.5 billion, and the private sector $6.2 billion. In welfare, the Federal share was $35.3 billion, State and local governments $9.0 billion, and private expenditures of $7.6 billion. Moreover, most of what we spend is channeled through State and local governments. While the degree of Federal involvement in the execution of public programs varies, it is typically minimal. A major exception is the social insurance system which is entirely federally operated.

The most comprehensive level of choice can be thought of in several ways—

(1) By major purpose or objective: health, education, social services, etc.;

(2) Among various prospective beneficiary groups in the Nation; the general population, poor people, urban dwellers vs. rural residents, the aged, children, etc.;

(3) Between programs with immediate benefits vs. those with more long-term benefits. Some expenditures of present resources do not yield immediate benefits. They are instead investments in future benefits. Typical health investments are measures aimed at increasing the future supply of doctors by building more medical schools. Social security payments to the aged or disabled, or increasing the availability of publicly-financed medical care are examples of immediate benefits.

One cannot hope for an overriding and satisfying analytical basis for such "grand choices." The reason is that the objectives to which all of these functions contribute are so sweeping and general that they cannot be looked at under a single analytical tent. We do not have, and, indeed, could hardly hope for, an overall social welfare function against which we can measure, say, the relative contributions of programs in health vs. education in increasing welfare. Perhaps as the work of Social Indicators becomes more advanced we can expect from it some better guides for the relative priority which should be placed on these broad categories of publicly-supported services.

On the other hand, for certain kinds of quite aggregate choices which cut across a number of different categories, there is some promise. For example, if it were to become national policy to elevate those classified as poor to certain minimum income levels over the next several years, Federal programs could be evaluated in terms of their relative effectiveness in raising the income or income prospect of the poor. A best mix of programs to do the job at minimum cost is conceptually possible. (As we will see later, such analysis would be sorely hampered by lack of information about the impact of various programs on income earning capacity.)

In the last several years, a number of economists have been attempting to estimate the *economic* benefits associated with a variety of publicly-provided programs. It is possible and interesting to estimate the economic value of increasing health, increasing education, increasing services. Health programs increase potential productive resources of a nation by extending life, decreasing disability, and reducing the requirement for the use of medical resources. Similarly, education is quite properly regarded on a plane with other investments which are associated with increasing the gross national product of a nation. But, though all such programs have important economic benefits—and it is interesting and sometimes useful to understand these benefits—the economic value associated with investments in them is not their principal purpose. It would not make sense to choose among them in terms of their relative contribution to economic well-being. While the economic component of well-being can be desperately important, if there were no economic benefits whatever from health programs, for example, we would want them nonetheless. In short, simply because programs can be compared in terms of some single benefit is not sufficient justi-

fication for choosing among them on the basis of that comparison.

Analysis cannot provide an all-encompassing social welfare function which would permit a decision-maker to understand the relative contribution at the margin of devoting public resources to various purposes or groups; but it is leading to the first useful step—namely, determining what added resources devoted to each purpose buys. Now decisions are made almost exclusively in terms of level of effort. Insofar as the aggregate outputs can be determined, we place the decision-maker in a better position to make choices because he would have the trading terms—viz., if he opts for "X" years more educational attainment he will not be able to get "Y" years' increase in life expectancy.

There are, unfortunately, a number of practical obstacles to providing these trading terms. For one thing, as we lack over-all measures of felicity, we also are without useful comprehensive objectives and measures in each of the major areas of public interest. Rhetoric such as "excellent health care for all," "an opportunity for all to get all the education they can absorb and desire," or "ending poverty" are noble sentiments but not easily amenable to crisp quantitative formulation. The development of such social indicators is just begun.

Another obstacle stems from the plurality of providers of the services under discussion. Estimating the net marginal impact of one provider's (the Federal Government) contribution is challenging. The difficulty is that any change in the Federal share may occasion an increase or a decrease in the share of the other providers of the service—the States, municipalities or the private sector—a Federal program can result in marginal impact greater or less than the direct effects of the resources immediately purchased. For example, a limited Federal program to detect and treat cervical cancer may persuade many women to have annual examinations at their own expense, and voluntary organizations may cooperate by financing *substantial* screening programs of their own. Indeed, many programs are designed with this sort of leverage as a principal objective. Conversely (and more difficult to trace), a new Federal program to aid elementary schools may allow local communities to defer an increase in school financing they would have otherwise undertaken. (And, who knows, the funds thereby released might be turned to other and more pressing needs of the community—in education, in health, or in other vital public services.)

These are not the only problems, but they should persuade the reader that improvement in our ability to make better allocation decisions among areas of public service will be harder than shaking apples from a tree.

At this point of the PPB's development, it provides an orderly framework of incomplete information. It requires inputs *and* outputs and it has therefore set in motion a chain of events that will lead to better information and more useful and relevant analysis. When it gets very good, the system will help in the grand choices, not by offering a substitute for value judgments and politically attuned choices, but rather by providing a clearer view of the implications of adding resources to various public programs.

It should be remembered that the grand choices are not zero base choices. Real decisions are made at the margin. No one ever decides about health programs in toto or education programs in toto. The questions typically are, "should we add this pre-school education program or that medical insurance program for the indigent?" We found it convenient this year to address the across-program choices through a method of successive pair choices. After providing certain reasonable (though hypothetical) funding constraints for each major area for the five-year planning period and planning within those constraints, the "best" individual programs (those that meet what was considered the most pressing need in each area) were compared with the worst in each of the other areas and an opportunity was available to (pretty much subjectively) shift funds across program lines.[2] While not a substitute for *knowing* the impact on "health" or "education" from such shifts, this operation did allow explicit consideration of alternatives across program lines.

Choices within program areas

Within areas such as health, education, etc., the prospective contribution of systematic quantitative analysis is potentially much greater. The "value" component of the decision is inevitably smaller (though rarely absent I hasten to add) and the technical component is larger. When the objective is quite narrow (the value judgment went into the *choice* of the objective), analysis can be enormously helpful in choosing among alternative approaches. For example, within a broader health goal, a more limited objective might be to decrease infant mortality. Infant mortality is measurable and routinely reported and there is little conceptual difficulty in evaluating alternative programs in terms of their relative effectiveness in reducing the rate of infant deaths. The preferred program or programs would be those which reduced infant mortality to some specified level by some given time for minimum cost; or the program which for some fixed level of resources minimized infant mortality.

One of our first analyses last year sought to determine what existing or new health programs would be most effective in reducing the very high infant mortality rates among some groups in our country. Estimating the cost and effectiveness of alternative modes of intervention was a little more art than science, but the estimates were quite good enough to provide an adequate basis for program choice.

The analytical task gets harder and the results less conclusive as the objective becomes more comprehensive. For example, an important broad objective toward which many health, education, and welfare programs contribute is to provide each working-age citizen with a full opportunity to be self-sufficient. Unlike measuring the rate of infant mortality, however, we have no single metric for "self- (or family-) sufficiency." Having an income above an arbitrarily defined "poverty line" is one measure of family self-sufficiency, but it is certainly not a fully satisfactory measure.

Human Investment Analysis. In another of the first analyses conducted in my Department to assist in formulation of a five-year plan, a number of existing programs aimed at increasing self-sufficiency (generally defined by income) among physically and "educationally" handicapped persons were studied and compared.

Five programs were selected for analysis:

(1) *Vocational Rehabilitation*—grants to States to assist them in setting up programs designed to rehabilitate handicapped individuals.

(2) *Adult Basic Education*—a program for individuals over eighteen whose inability to read and write the English language constitutes an impairment of their ability to get and retain a job commensurate with their real ability.

(3) *Work Experience and Training Program*—a program of work experience and training designed for persons who are unable to support themselves or their families.

(4) *Vocational Education*—grants to States to support vocational high school and post-high school programs to prepare students for employment and to motivate students to stay in school who might otherwise drop out of academic or general curricula.

(5) *Elementary and Secondary Assistance for Educationally Deprived Children*—All of these programs have multiple objectives but their principal objective is increasing the capacity of the individuals involved to support themselves. The programs were compared on the basis of their relative effectiveness in meeting this common objective. Except for the last of the programs, estimates were made of the economic benefit to be expected from the program measured by the increase in the expected future earnings of the participants. Ideally the increase in expected future earnings would have been based on the differential experience of carefully matched groups—one which went through each program and another, with similar characteristics, which did not. The difference in their earnings after the program would be taken as the increase attributable to the program. Unfortunately, such data were out of the question and in every case very much inferior information was used to estimate program effectiveness. There is in the work-experience program in addition to the long-term benefit of increased earnings potential during the training a short-term benefit, namely, the economic value of the output. In all cases the future increase in earnings attributable to the programs were discounted to reflect the "present value" of these benefits.

In the end with baling wire and tape for each of the programs a benefit/cost ratio was calculated (which was nothing more than the discounted future earnings over the cost of the program.[3] The benefit/cost ratio for the programs ranged from barely over 1/1 to over 12/1, which is to say that for certain of these programs future monetary benefits equaled costs and for others future monetary benefits could be expected which were twelve times the cost of the program.

Before saying what we concluded from this study, I will discuss the limitations which surround it and which in more or less severe form are present in most such analyses. They are: (1) treating future costs and benefits; (2) an extension of (1)—intergenerational considerations; (3) multiple objectives and incommensurables; and (4) efficiency versus equity.

The future benefits of social programs accrue over a long period of time usually much beyond the costs of the program. To compare programs in which the benefits extend over different periods it is necessary to make these different streams commensurable. This is done by applying a discount to future benefits. There is no generally accepted discount rate used to apply to such future benefit streams. The lower the discount rate used the more the future benefits are weighed; the higher the discount rate the less the future counts. The question is especially important when alternative programs have substantially different patterns of benefits over time.

Intergenerational considerations. If future benefits are discounted at some positive rate, programs which have benefits that do not emerge for many years such as most children's programs will tend to look relatively unattrractive. In the analysis just discussed, the school program was originally included but it became quite clear that even if the impact of that program on the future earn-

[2] If we had an ideal program allocation within program areas there would be no best and worst programs—all would promise equal benefits at the margin. Of course such was not the case and when one allows for differences in the redistributive aspects of programs—it never can be the case.

[3] It was not possible to make such an estimate for the fifth program, aid to children who are deprived. It would take at least a decade to obtain even preliminary indications of the impact of this program on the earnings capacity of children now in elementary school.

ings of the children involved was very substantial, a modest discounting of those benefits would practically wipe out the benefit because they occur so many years in the future. This fact raises the basic question, as yet unresolved, of how or whether to compare programs aimed at different generations. This is a specie of the genus: consumption versus investment or immediate benefits versus long-term benefits.[4]

Multiple objectives and incommensurables. All of the programs considered in the study have objectives which go beyond increasing income earning capacity. The Adult Basic Education program for example, in providing literacy training enables the graduates to be more effective members of society. While these other objectives may not have been paramount in the eyes of the legislators who enacted the program and annually provide it funds—there may be more important outcomes of the program than they had in mind. In any case objectives are frequently multiple and appropriate criteria for measuring attainment of these objectives different, nonaddable, and non-measurable. There is nothing to do about this except to recognize it and to surface and illuminate as well as possible the multiple benefits (and indeed costs) of programs.

Efficiency Versus Equity. Virtually all public programs have a redistributional character—they benefit some people more than others. The problem of choice among most alternative social programs is not therefore resolved by determining which programs are most efficient. The question of *who* benefits is absolutely central. It is vital information for a decision-maker concerned with social programs. Unless alternative programs generally affect the same individuals or at least the same relevant group in the population, efficiency considerations must be at least tempered or sometimes overshadowed by the distributional implications of alternative programs. Let me illustrate this point. The vocational rehabilitation program is directed to people with palpable physical and mental handicaps; the work-experience and training program is directed to those who are unable to make it for some other reason, generally a different group. If one were to be guided by efficiency criteria (benefit/cost ratios) exclusively the more "productive" vocational rehabilitation (VR) program would grow while the work-experience program would shrink.[5] The socially handicapped would not get to first base while the physically handicapped were scoring run after run.

Indeed, it is distributional problems which give birth to programs aimed at their amelioration. Therefore, though it is "untidy," both equity and efficiency criteria must be brought to those who decide among social programs.

In the light of these limitations it should be clear that the benefit/cost ratios calculated for these programs were not used as the definitive basis for determining program growth. They were an element of consideration. They tended to tip the scale in favor of the programs which appeared and had continued prospect of operating efficiently. Another outcome of this study, unexpected, was the recognition of the wide range of results within a program. It led to a new emphasis on program improvement for it appeared clear that large gains in efficiency were possible by upgrading the poorest programs.

[4] In a country with rapidly growing GNP there is a persuasive case for using unmercilessly some positive discount rate for investment programs. An observer who feels this way phrases the problem: How much should we beggar ourselves for our rich heirs?

[5] Eventually of course, as the VR program increased its relative advantage would decrease and disappear and it would be efficient to add to the work-experience and training program.

Disease control analysis

An example of an analytical study somewhat less subject to the problems of commensurability and other of the limitations which surrounded the Human Investment study addressed the question, "how to allocate federal dollars among disease threats?" My Department supports a number of grant-in-aid programs designed to detect and treat individuals afflicted with certain diseases: heart disease, cancer, syphilis, tuberculosis, kidney disease, alcoholism and several others. The question addressed in the Disease Control study was: "how should a given amount of funds be allocated among these programs?"

The analysis of disease control programs rested on the following decisions: (1) the choice of diseases to be considered was restricted to programs in which it was possible to estimate with reasonable confidence the impact of expenditures on outcome. Put another way, we confined the analysis to those programs in which medical knowledge exists for a considerable measure of disease control. Alcoholism, heart disease and several other disease programs were not included in the analysis based on this ground rule. Because we have programs designed to reduce the incidence and severity of motor vehicle accidents (these are the 4th largest killer in the United States), and for our purpose these accidents are the same as a disease, we included motor vehicle programs in our analysis; (2) only detection, control and treatment programs were considered. Research programs in which it generally is not possible to estimate the impact of expenditures on results remained outside the study.

Five disease areas were included in the analysis: injury from motor vehicle accidents, cancer, arthritis, syphilis, and tuberculosis. For each disease category, alternative methods for control were evaluated in terms of the number of lives saved, the program cost per life saved, and estimated economic savings related to the programs. Two principal criteria were used to rank the programs within each disease category as well as among different disease categories analyzed:

(1) Cost per death averted—an average of program costs over the next five years divided by the deaths averted due to the program;

(2) The benefit/cost ratio which was used to provide some commensurable basis among diseases which kill versus those which cause disability. The benefit/cost ratio is the relationship between the amount of dollars invested in reducing morbidity and mortality and the "savings" of dollars which would have been spent on medical care cost including doctors' fees, hospital services, drugs and the indirect savings such as the earnings saved because the patient did not die or was not incapacitated due to illness or injury. Average lifetime earnings for different age groups were related to the age at which death occurs and a calculation of the present value of lost lifetime earnings.

There were obvious limitations upon the use of these two criteria in comparing disease control programs. For the purposes of estimating benefits among diseases, it was recognized that economic loss or even death do not completely reflect the damage and harm caused by disease. At the time of the study we had no way to measure the relative impact of pain or the hardship caused by disease. Moreover, the assessment of program benefits did not include such indirect benefits as the development of new medical techniques or the training of additional personnel. Estimates of program costs were limited to those directly linked to federal involvement in disease control. Finally, particularly in the case of the motor vehicle programs, estimates of effectiveness are subject to great uncertainty.

Bearing in mind these limitations, let me describe briefly one of the individual analyses: cancer control and prevention. Four different cancer programs for early detection and treatment were studied in terms of their relative effectiveness at two different levels of funding: uterine-cervix; breast; head and neck; and colon-rectum. The federally-supported lung cancer program, which is primarily a prevention program was also studied. Calculations of benefit/cost ratios and cost per death averted for each program showed that uterine-cervix and breast cancer control programs yield relatively greater returns in terms of dollars invested and have the lowest cost per death averted. It was fairly clear from the analysis that before programs for head and neck and colon-rectum cancer control are accelerated, technology for detection of these cancers should be further developed.

A similar analysis was performed for each of the other four diseases. Because the separate analyses made use of commensurable criteria, it was possible to make comparisons of the effects of additional allocations among different disease control programs and to suggest a priority ranking for the use of new funds. The outcome of the analysis is shown in Table 1.

TABLE I.—BENEFIT COST DATA, SELECTED DISEASE CONTROL PROGRAMS[1]

Program	1968–72 HEW costs[2] (millions)	1968–72 HEW and other direct costs[2] (millions)	1968–72 savings, direct and indirect[2] (millions)	Benefit ratio cost[1]	Program cost per death averted
	(1)	(2)	(3)	(4)	(5)
Seat belt use	$2.2	$2.0	$2,728	1,351.4	$87
Restraint devices	.7	.6	681	1,117.1	103
Pedestrian injury	1.1	1.1	153	144.3	666
Motorcyclist helmets	8.0	7.4	413	55.6	3,300
Arthritis	37.6	35.0	1,489	42.5	(4)
Reduce driver drinking	31.1	28.5	613	21.5	5,800
Syphilis	55.0	[3]179.3	2,993	16.7	22,300
Uterine-cervix cancer	73.7	118.7	1,071	9.0	3,500
Lung cancer	47.0	[3]47.0	268	5.7	6,400
Breast cancer	17.7	22.5	101	4.5	7,700
Tuberculosis	130.0	130.0	573	4.4	22,800
Driver licensing	6.6	6.1	23	3.8	13,800
Head and neck cancer	8.1	7.8	9	1.1	29,100
Colon-rectum cancer	7.7	7.3	4	.5	42,900

[1] Numbers have been rounded to a single decimal point from 3 decimal points; therefore ratio may not be exact result of dividing col. 2 into col. 3 as they appear here.
[2] Not discounted.
[3] Discounted.
[4] Not available.

Note: Funding shown used as basis for analysis, not necessarily funding to be supported by administration.

Motor vehicle accident and injury prevention programs were shown to have the highest potential for reducing deaths and injuries at very modest investment. The priority ranking for the use of additional allocations among the other programs recommended

support for arthritis, uterine-cervix cancer control, lung cancer prevention, breast cancer, syphilis and tuberculosis control. After providing support for these programs the study recommended further expansion of uterine-cervix cancer, syphilis eradication and tuberculosis control programs.

VII. SUMMARY AND CONCLUDING OBSERVATIONS

An important reform is under way in the United States. It's a reform designed to improve the efficiency with which public resources devoted to public purposes are used. Its sharpest point of focus at this time is the Executive Branch of the Federal Government. It's a young reform and really too early to report on confidently, but it's a promising one and therefore well worth discussing. It is a framework for planning—a way of organizing information and analysis systematically so that the consequences of particular choices can be seen as clearly as possible. It has the unbearably lengthy title of Planning-Programming-Budgeting System. Its emergent features are:

1. Open, explicit, and deliberate attention to the ends of governmental action;

2. A comprehensive display of information about the functioning of actual government programs so that it is possible to see easily what portion of Federal resources is being allocated to particular purposes, what is being accomplished by the programs, and how much they cost;

3. Systematic comparisons of the costs and benefits of the alternative ways to attain the ends of government action; and

4. A forward-looking though highly tentative plan to serve as the backdrop for annual budgetary decision.

These four activities are interrelated and build on each other.

When priorities among social ends are known, PPB can be expected to lead to improved choice among programs toward those ends; when priorities are not known, the system will help in their formulation because of: (1) its demand for explicit choices; and (2) the improved information about the consequences of public programs.

Systematic analyses of alternatives are most effective within broad areas of social action rather than among them. The contribution of quantitative studies tends to be directly proportional to the narrowness and the uniqueness of the objective: the narrower the objective, the more relevant the analysis; the more diffuse the objective, the less helpful.

There are many obstacles to a more effective contribution of analysis. Foremost among them are:

(1) A number of perplexing unresolved conceptual problems involving: how to compare benefits over time and intergenerationally; how to contend more adequately with efficiency versus equity considerations; and how to measure important benefits and costs which have resisted quantification;

(2) Information on the outcome of existing programs and improved bases for gauging the effectiveness of new programs;

(3) and (no matter how short such a list) a shortage of talented analysts.

No reform worth its salt is without critics and PPB is no exception. Unfortunately, the quality of the controversy suffers because most of the critics are still commenting on the writings of some of the early zealots of the system rather than on the process which is emerging. In a recent article on PPB in the *Public Interest Magazine*, Elizabeth Drew aptly states "as interesting as watching what happens to Government when confronted with the Government." And what is happening is that PPB is finding a place for itself, not in an obscure isolated planning office and not yet in the scholarly literature but rather where the action is—where decisions are made. Once there, practitioners are finding decisions they can help improve now and decisions they may be able to illuminate later. They are also finding many choices in which the contribution of analysis and information is not great. The wise ones are spending their time and talent on the former.

In the end, if the reform succeeds, it will not displace traditional political processes, but help them function more effectively. It can do this by, first, focusing the attention of the political leaders of the country on the choices before them; second, by clarifying the implications of alternative courses of action; third, by improving the quality of the debate among those with diverse views about this or that end or this or that program; and, finally, by further ventilating the basis of the choices made among ends and among programs.

THE UNITED STATES STILL HAS BELATED OPPORTUNITY OF APPROVING CONVENTIONS OF HISTORIC MAGNITUDE

Mr. PROXMIRE. Mr. President, in the last few years, our country has made great strides domestically in the struggle for human equality and dignity. Indeed, the world has focused its attention on our efforts.

I feel that our successes at home have clearly strengthened our capability to exercise even greater influence in the worldwide struggle for human rights.

We have been busy building a more just society in our country and working hard at eliminating the last vestiges of discrimination from our laws. But, there is much to be accomplished yet in achieving these same goals for man everywhere.

It is shameful to note that the United States—the leader of the free nations—is not among the countries on record endorsing the Human Rights Conventions to uphold the dignity of man.

It was only a month ago that the Senate gave approval to the Slavery Convention. We now have the opportunity, belated as it is, of giving full ratification to the remaining conventions on Forced Labor, Freedom of Association, Genocide, and the Political Rights of Women.

As I rise each day in the Senate to seek ratification of these treaties, I think of the words of a man who so ably represented us in the United Nations—Adlai E. Stevenson. Ambassador Stevenson expressed his hope for a world "in which fundamental issues of human rights, which have been hidden in closets down the long corridor of history, are out in the open and high on the agenda of human affairs."

NATION'S CONCERN INCREASING OVER PLIGHT OF OLDER WORKERS

Mr. YARBOROUGH. Mr. President, on Sunday, November 19, the Dallas Times Herald, in an article written by staff writer Bill Murchison, expressed great concern for the plight of the older unemployed. The article gave a clear and complete picture of the situation which the older worker has to deal with—the prospects of lower pay, lower skill levels, and lowered pride in his work. Although he has worked upward all of his life, now, due usually only to circumstances, all of his gains are lost, and he faces neither the security nor the comfortable income in his job toward which he has worked all of his life.

In our youth-geared society, we must not fail to recognize the value of experience and maturity. And this quality must not be undervalued in the jobseekers who possess it. I commend the Dallas Times Herald and writer Bill Murchison for their concern for the worker over 45, whose plight has become worsened every year by the growing emphasis on youth in and out of industry. It is time to end discrimination because of age, and to increase the productivity of members of our society. The Senate has taken a great step toward this goal by passing S. 830, my bill to end job discrimination because of age. This is a first ray of hope for older workers, and it must not now be extinguished, recondemning them to the dark prospects of unemployment.

Mr. President, I ask unanimous consent that the article, entitled "Sorry, You're Too Old for Us," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SORRY, YOU'RE TOO OLD FOR US

(By Bill Murchison)

John Doe, a 52-year-old unemployed accountant, applied for a job with a leading Dallas insurance company.

"Sorry," he was told. "You're too old for us."

Joe Smith, 58, whose oil company had left him high and dry after a merger, offered another firm his services as a petroleum engineer.

"We'd like to take you," was the answer. "but we're just not hiring men of your age."

Forty-seven-year-old Jane Brown applied for a position as a corporate legal secretary—the same job she had held before her employer died.

The reply: "We'd like to hire you. It's just that we can't use anyone who's much above 40."

The names are fictitious, but the incidents are real: they happen regularly to a large number of the 27 million persons between 45 and 65 in the U.S. labor force.

To almost anyone, seeking employment can be a discouraging chore. But to a person 45 or older—with a family, probably; with debts, almost certainly—it can be nothing less than frightening.

It may be that such an applicant is well-qualified and still fairly young, and that he could slip back into harness with little ado.

Yet discrimination against the older worker remains a fact of life. And this despite a thaw in employer attitudes toward the middle-aged, despite a full-steam ahead economy and an increasing awareness of the problem on the part of government.

In a comprehensive 1965 study, the Labor Department found that during the previous year, job-seekers over 45 years old accounted for 27 per cent of the unemployed.

Only 8.6 per cent of new workers hired by companies surveyed were over 45—less than one-third this age group's proportion among the jobless.

Public employment offices queried said older workers constituted about 30 per cent of all applicants registered for employment.

None of this, the study concluded, means "that so-called older workers cannot get jobs or cannot get good jobs.

"But it does mean that their job search may be long and hard, for they will be given no consideration for employment in some establishments. For many, it also means that their choices narrow; that they must accept reduced wages—in some cases, for the same kind of work and in others, for work at lower skills."

What this means, in human terms, is distress—even suffering.

For when unemployment comes to a man in his 40s or 50s, it often finds him with children already in college or about to enroll.

Any sustained period of joblessness may cause a family to run through its savings.

So long, too, as a man is unemployed, he cannot build retirement benefits of any kind.

But there are personal consequences to be reckoned with, as well.

Dr. Hiram Friedfam, director of the Economics and Sociology Department at North Texas State University and an expert on problems of the aging, says there is reason to believe that unemployment at middle age has a "negative psychological impact."

The Labor Department report notes that an older worker's self-confidence begins to wane when he is out of work: "This often affects his employability. A man who has become depressed or bitter tends to lose aggressiveness and interest in his surroundings and may require rehabilitation before he can be re-employed."

It is not unusual for a man of education and experience to find himself looking for work.

It happens every day.

Companies fail, or merge, or reduce their labor forces for economic reasons; skills once widely sought pass into the discard; a workers' health begins to fail, disqualifying him for the kind of work he has been performing.

Automation may not be quite so great a factor in unemployment as those affected by it sometimes believe.

Friedfam thinks society knows too little about automation to assess its impact fully.

"One idea," he points out, "is that it may help to create the type of job where certain abilities and skills can be used—it's easier to push a button than to do heavy labor."

Whatever the cause of his unemployment, however, the older worker who seeks to join another payroll has no easy task ahead of him.

He must contend, above all, with competition from increasing numbers of young job-seekers. The last crop of war babies already is in the market, and coming up fast are the postwar progeny.

Perhaps no other society in history has been so youth-oriented.

Not an adult but regrets his greying hair and his expanding paunch. Grown-ups copy youthful styles of dress, dancing and speech.

Small wonder that such attitudes are reflected in employment policies.

The Labor Department study revealed that one of every four companies surveyed had upper age limits for one or more occupational categories. Only one in six indicated a policy of hiring without respect to age.

A few establishments said they hired only applicants under 35. Fully a quarter of them drew the line at 45.

There are, of course, many reasons for setting age limits.

Companies surveyed in the study responded most often that they avoid hiring older workers for physical reasons.

And it is true that, as Friedfam points out, middle age brings "a sort of general slowing down."

"If he has a job that places a premium on speed * * * to build them up so they can compete successfully." Similar projects are in effect throughout the state.

For older workers with little education and inferior job skills, there is the TEC's Opportunity Center, which trains enrollees for posts like engine lathe operator, production machinist and office machinery repairman. The Dallas center has about 50 older workers on the rolls.

Since 1903, 23 states and Puerto Rico have banned discrimination in employment because of age. (Texas has no such law.)

On Nov. 6, the U.S. Senate passed and sent to the House Texas Sen. Ralph Yarborough's version of a national anti-age discrimination bill.

The Yarborough bill, first of its kind in 16 years, would apply on enactment to all employers and unions with 50 or more persons and to employers and unions with 25 or more starting June 30, 1968.

Says Yarborough: "It is tragic and absurd to tell a man who has experienced these years of change and learned from his experience that he is 'too old' to work."

Yet the effect of such laws should not be overrated.

"The main thing about this kind of thing," Friedfam says, "is that it in effect lends moral support—it simply puts the state or federal government on record as encouraging employment without regard to age."

The federal government itself has not discriminated against older workers since President Johnson in February 1964 issued an executive order to the contrary.

LICENSE REQUIREMENTS FOR RADIO STATIONS

Mr. LONG of Missouri. Mr. President, recently the Missouri Broadcasters Association unanimously passed a resolution urging an extention of the renewal period for broadcast stations. This resolution brought to my attention the time-consuming, costly operation of applying for a station renewal license. This is a burden that is shared both by the stations and by the Federal Communications Commission.

A number of proposals have been introduced in this session of Congress to change the license requirements for broadcasting stations. I hope that the Senate Subcommittee on Communications will devote some time to considering each of these proposals and will devise an acceptable solution to this important problem.

Presently the broadcast industry in this country must contend with procedures and regulations established in an earlier period. Some of the objectives of early procedures are now outdated.

For some time the Federal Communications Commission and individual Commissioners have advocated important changes in the broadcast license requirements. These recommendations have included increasing the maximum period of licenses issued for broadcasting. The most prevalent recommendation would extend the license term of broadcast stations to a maximum period of 5 years. This proposal would result in some needed administrative reforms.

In the early years of broadcasting, the radio industry experienced a rapid growth. This growth was accompanied by a proliferation of broadcasting stations using a relatively small range of broadcast frequencies. Interference became so widespread that practically all broadcast programs were affected. Some method had to be devised to make possible reasonably clear reception. To meet that need, licenses were required for broadcast stations to control the number of stations broadcasting on certain frequencies and to establish an orderly assignment of frequencies. The integrity of frequencies is no longer a pressing problem. The protection sought by licensing has been accomplished. The purposes of broadcast licensing has changed. The role of licensing is now the orderly development of the broadcasting industry and the protection of public interests. But the outdated license term of 3 years has not responded to the change of roles.

The 3-year term was set by the Radio Act of 1927. The conditions of that period reflected an uncertain future for radio broadcasting. Close supervision was deemed necessary to assist development of radio in an orderly manner consistent with the interest of the general public. Since that early period the radio industry has made major advances. Television has appeared and matured. As radio technology has changed, regulatory measures have been devised to take account of progress in the industry. However, the antiquated 3-year maximum term license for broadcasting stations has persisted.

An extension of the maximum license term would not relieve broadcasters of their obligations to the public. Regulatory sanctions are available to deal with any licensee who is found at any time to be unqualified or irresponsible. The quality of broadcasting is not improved by the vast amount of paperwork which the 3-year renewal requirement entails.

A considerable saving in time would result not only for the industry but also for the FCC if the license term were extended. A change by the proposed license term would cut almost in half the paperwork for both the individual broadcasters and for the FCC. The large amount of paperwork is the chief effect of the license renewal regulations. My subcommittee investigated and has found that the FCC today has a tremendous work burden. Most of that burden is paperwork which results in long and frustrating delays. Congress must act to help the FCC unravel its outdated procedures and regulations.

The many small business broadcast stations bear a disproportionate burden because they must devote 2 or 3 weeks of work in preparation of forms for the license renewal applications every 3 years, generally during the busiest broadcast months of the year, merely to stay in business. The burden is also heavy for the larger stations even though they have greater resources. Twenty-three FCC forms are applicable in some degree to all broadcasting stations. Seven logs must be kept up to date. Individual contracts for single performances must be filed with the FCC, and kept ready for inspection at any time. Field engineering checks must be made months before expiration of the 3-year license term in any case.

A change to a 5-year license term would contribute substantially to the reductions of the heavy backlog of the FCC. Some 800 fewer applications would need to be processed annually, releasing manpower to be used in other areas of FCC work where it is badly needed. The size of the workload is indicated by the 2,579 radio, 492 TV and TV translator renewal applications processed by the FCC during fiscal 1966. During the year a total of 17,955 broadcast applications were received, of which 2,677 were for renewal of commercial licenses. This is a a significant increase from 20 years ago when renewal applications numbered only 528. We must adopt new standards to meet the great increase in the administrative burden.

Most of the current backlog of the FCC is paperwork and not regulatory work. The enactment of a 5-year license renewal term would remove a great amount of the unnecessary work for the Commission. As early as 1958 the FCC itself recommended the extension of the renewal term in its legislative program. Activities of the FCC should not continue to be based upon conditions which existed 30 or 40 years ago. Regulation should be brought somewhere within the range of technological progress in the industry. Outdated and inefficient regulatory procedures should not be continued.

Regulations which have served their original purposes should either be revised to fit new situations or withdrawn. Assuming checks on the broadcasting industry are desirable, the review which would be provided by the renewal of licenses every 5 years would suffice. The revisions in this area are long overdue. I strongly support this change in the renewal regulations and urge that the Senate study these proposals so we may act during the new session early next year.

VICE PRESIDENT HUMPHREY ADDRESSES "LAWYERS AND AMERICA'S URBAN CRISIS"

Mr. MUSKIE. Mr. President, the October issue of the American Bar Association Journal contains a timely and pertinent article by Vice President HUBERT H. HUMPHREY on the urban crisis. Although he specifically addresses his comments to the role of lawyers and the legal profession in the crisis, the Vice President's message deserves wide attention. As he points out:

> The crisis is very real, and its dimensions are much greater than the sum of the material and human losses, the misery and terror that have occurred. It bluntly challenges the viability of American democracy.

Mr. President, this challenge to the viability of our democracy must be a primary concern to each one of us. The Vice President's eloquent words to American lawyers is a constructive and thoughtful one. I ask unanimous consent that the text of "Lawyers and America's Urban Crisis" be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

LAWYERS AND AMERICA'S URBAN CRISIS

(NOTE.—Speaking before the Assembly luncheon at the 90th Annual Meeting in Honolulu last August, Vice President HUMPHREY outlined the extent of the present crisis facing America and called on lawyers and the organized legal profession to bring to these problems the creative solutions they have offered in the past. He described the crisis as having three dimensions: lawlessness, poverty and urbanization.)

(By HUBERT H. HUMPHREY, Vice President of the United States)

We must turn our attention to the American city. The lawlessness and violence that have occurred in some of our cities recently has been deeply unsettling and disappointing to nearly every American—but most of all to those dedicated to the rule of law.

We have always prided ourselves on our determination to achieve our objectives through peaceful means. We have always been confident that the American legal system could grow with the needs of our society, be flexible and yet provide an absolute and stable source of authority. Indeed, the law has frequently served as an instrument for prompting social and economic progress.

Looking back over the last fifteen years, I think we can honestly say that more than ever before the law has served both as an instrument of growth and as a stabilizing force. New legislation, court decisions and executive orders, taken together, have strengthened nearly every one of our fundamental American rights—the right to be equally represented in our legislatures and in Congress, the right to privacy, the right to full protection of the law in the courts. Progress has been especially dramatic in the field of civil rights. During these few years we have sought to guarantee every American the right to vote, the right to equal opportunity in employment, in education, in access to public accommodations. These were not radical departures from American constitutional theory, but they have brought revolutionary advances in practice. Never before in history has any nation done so much in such a short period of time to provide full equality under law for all of its citizens. The law has provided a responsible avenue through which our historic nonviolent civil rights movement has been able to realize many of its goals.

CRISIS CHALLENGES OUR INSTITUTIONS

But suddenly, despite all of this progress, we find ourselves witnessing a spectacle unprecedented in American history—thousands of citizens in cities across the country openly defying the law and local authorities, necessitating use of the National Guard and federal troops to suppress them. We have heard calls to insurrection in the name of "civil rights". We have heard civil rights leaders, who have successfully found satisfaction for their people in the courts, attacked for having too great a regard for due process.

The crisis is very real, and its dimensions are much greater than the sum of the material and human losses, the misery and terror that have occurred. It bluntly challenges the viability of American democracy. Can our institutions really serve the interests of the people? Can they cope with the fundamental problems of American society today? I am confident that the answer will ultimately be "yes". But our success will depend upon our ability to understand the crisis, and to mobilize our resources and institutions to deal with it.

The crisis is three-dimensional. First, there is an immediate problem of lawlessness, crime, violence and riot which demands a simple and direct response. Men schooled in the law know that no nation can tolerate flagrant disregard for the law. You know, and I know, and the rioters themselves must know, that riots *will* be suppressed. Order *will* be restored. Those malicious individuals who spark disorders will be found and prosecuted. For there can be no freedom, no equal opportunity, no social justice, in an environment of mob rule and criminal behavior. Arson does not build houses. Murder does not win civil rights. Theft and looting do not produce jobs. These acts of violence and crime produce revulsion, hostility and hate, which are bound to slow real progress.

The second dimension of this crisis—no less real and no less obvious than crime in the streets—is poverty. It it a fact that one of every six Americans does not share in the benefits of American society in the 1960's.

Let us look at poverty the way the victim sees it. Poverty means a *maximum* of thirty-two cents a meal per person each day, with $1.40 left over for everything else—rent, clothing, transportation, medicine, recreation. Thirty million Americans live on that much *or less*. Half of America's Negro population falls into that category.

Poverty means four times as much heart disease, six times as much arthritis and rheumatism, six times as much mental and nervous illness as compared with the other five sixths of our population. It means that 60 per cent of all poor children never see a dentist; 50 per cent never see a doctor. It means that a man is four times as likely to die by the age of thirty-five. It means the ghetto unemployment and underemployment rate is up to 35 per cent. It means idle, untrained, restless youths loitering on street corners. These poor people have the freedoms that go with American citizenship. But in all too many cases these freedoms are an inflated legal currency worth little in the marketplace of American society.

These Americans suffer something more acute than poverty of the purse. They suffer an active and intense frustration that comes from watching the other America at work and at play on television, and knowing that it is beyond their reach; a frustration that comes from paying higher prices in the ghetto shops than those charged in the supermarkets of suburbia—and knowing it; a frustration that comes from paying exorbitant interest rates for shoddy goods—and knowing it; a frustration of being unemployable for lack of training—and knowing it.

The consequence of being poor and hopeless in a society in which most are not produces a deep sense of alienation. This feeling is nowhere more fully expressed than in the attitudes of some slum dwellers toward the law. Twenty per cent of the Negroes interviewed two years ago in Newark stated that they had no faith whatsoever in the police, the courts or any other public agencies. As Justice Fortas recently put it, the law to the poor is a system devised "by the establishment—of the establishment—for the establishment". This is a law known in the ghetto, not as the blindfolded goddess of even-handed justice, but as "the man"—capricious, arbitrary, authoritarian, foreign—worthy of fear but not of respect.

In the eyes of the *impoverished*, it is the law that garnishees the poor man's salary, evicts him from his home, binds him to usury, cancels his welfare payments. Worst of all, it is the law that has guaranteed equal rights to all but has failed to provide equal opportunity. In this situation, the law loses its stabilizing influence. It becomes for the poor an irritant. Frustration, alienation and unrest are not surprising consequences.

The third dimension of the crisis before us is urbanization. Some 70 per cent of the American people now live in urban areas. By 1980 the figure will be 80 per cent. The cities have become the total environment for the great majority of our citizens. And this environment is blighted with congestion, dirt, polluted water and air, tension, crime. This is the ghetto—the prison of the poor.

The residents of that ghetto are 80 per cent Negro. A high proportion of them are recent migrants from rural areas in the South. Newark received 54,000 such migrants between 1950 and 1960; Detroit, 45,000; Los Angeles, 215,000; New York City, 222,000. A man who migrates does so in hopes of bettering his lot. But the migrant Negro arrives in the city without marketable skills. He is often illiterate. He is a stranger in a foreign land.

I do not mean to minimize the problem of rural poverty, which is still acute in many areas. That is a different subject—and an important one. But most Americans live in cities. They are the measure of our civilization in the twentieth century. It is in our cities where democracy will survive or perish.

HOW THIS CRISIS AFFECTS LAWYERS

I have spelled out a compound challenge of poverty, alienation and unrest in urbanized America—and we turn to you for help. Back in the 'thirties, when the United States

faced another acute social and economic crisis, the lawyers came forward with creative and constructive ideas. Lawyers provided much of the vision and stimulated those combinations of public and private effort which enabled us to rise out of the Depression. That same kind of guidance is needed now.

Many lawyers already are at work on these problems as government officials, as members of Congress, and in state legislatures and local government. Lawyers are, in fact, the architects, builders and protectors or democratic society. But those in private practice have a double opportunity to be of service to our troubled nation—as influential citizens in their communities and as advisers and counselors to their clients.

The American Bar Association is to be congratulated on the splendid work the legal profession has done through the neighborhood legal services program of the Office of the Economic Opportunity. This kind of contribution is nothing new from the legal profession. It has been providing legal aid for nearly a century. Extensive legal aid is vitally important now. It can demonstrate that our laws are designed to protect the weak and the poor as well as the establishment.

The experience of the last few weeks suggests that neighborhood legal service lawyers have succeeded in gaining the confidence of the neighborhoods in which they work. We have solid evidence that they have been able to avert riots, calm them after they have started, and see that those arrested enjoy the full protection of the law. They have talked, advised and cautioned, frequently at great personal risk. In Newark, Detroit, Cleveland, Washington and many other cities, they have served as a channel of communication between ghetto spokesmen and city officials.

To extend the protection of our existing institutions and laws to every person is obviously essential. But there is a more fundamental question regarding the structure of the institutions themselves. Do our political and social institutions adequately serve the requirements of modern, urban America? Are we organized to meet today's responsibilities and to plan effectively for tomorrow? Are your municipal governments adequate to handle the task before them? Is the structure of criminal law in your community adequate? Can it be efficiently enforced? Are there adequate provisions for dealing with mental illness and alcoholism outside the criminal courts? Do your police forces spend time on domestic disputes which could be handled better and more efficiently if referred to specialized agencies? Do the police in your communities have adequate guidelines for dealing with situations which demand a great deal of individual discretion? Lawyers and local bar associations can work with city officials to develop such a code. Does your state or city provide the facilities and program for training police officers in modern law enforcement techniques and police-community relations? One of the great urban problems today is the gap between the police and inhabitants of the slums—the very people who need police protection most.

Our police forces have a tough job to do. Lawyers can help bridge that gap between the police and the community. You can help our police to be better prepared to handle their difficult responsibilities. You can help the public gain a better understanding of and respect for the police.

Recently I suggested that all fifty states consider forming councils for civil peace at the state and, where possible, at the metropolitan level. The councils would include representatives of all racial and religious groups, plus officials of the state attorney generals' office, law enforcement agencies and local government. It could function as a community relations service to prevent violence, gain community cooperation and hear the voices of those who have too long gone unheard. It could establish a co-ordinated early-warning system to detect potential disorders and, it is hoped, nip them in the bud. It could establish a central communications network.

LAWYERS' OPPORTUNITIES AS BUSINESS ADVISERS

Lawyers have opportunities as advisers to the nation's businesses and corporations.

The central principle of American progress has been a working partnership between government and the private economy. The problems of today are too great and too complex to be solved by government alone. It is more than our laws and our public institutions that are being tested; it is our entire free enterprise system.

Can that system provide jobs and training for the hard-core unemployed? Can it make them contributing members of this economy, both as consumers and producers? Can it meet national need when that need is clear and present? Can this system provide the initiative, the imagination and the capital to meet the pressing necessity for more schools, efficient mass transport, low- and middle-income housing—the infrastructure for the new America? Some say no; but I say yes. American business has always known that prosperous people mean a better market. I don't believe businessmen can be content so long as one-sixth of their potential market is undeveloped.

We in government are ready to help. Where there are obstacles, we are willing to try to remove them. Where there are opportunities, we want to hear about them. The full creative force of American free enterprise in cooperation with government must be turned to these great and waiting tasks. The Negro leadership is in a unique position to advise which programs are likely to work and to supply leadership in these programs.

But, let me stress one crucial point. The task ahead will require the efforts of every organization and every citizen of this country. We certainly have the resources to do the job. We have the scientists, the engineers, the sociologists, the lawyers, the planners and administrators, if only we put them to work on this priority problem. Any nation that can mobilize its scientific and managerial resources to put a man on the moon ought to be able to put a man on his feet on this good earth. The so-called lunar program tells us something else. If you want to get a job done, you must use the most modern methods, you must make a commitment and you must be willing to pay the price.

But the price that we must be willing to pay is not just more money. Rather it is a price of priorities. It is the price of administrative reorganization in order to get the most out of every dollar and to use our resources better. It is the price of modernizing state laws and city charters. It is a massive training and employment program by private industry and the price of taking the risk of hiring untrained workers and giving them on-the-job training. It is a massive recreation and education program, particularly in the urban slums. It is keeping our schools operating twelve months a year, making job training programs related to job opportunities, investing billions of private capital to give our cities new life and new hope. It is investment guarantees for private capital, long-term credits and low rates of interest with government co-operation, tax incentives, risk insurance and government participation as a helpful partner but not a dominant force.

Part of the price is the willingness to recognize that the slum is repugnant to American values and that it must be eliminated as if it were a malignancy. It is the price of recognizing our slums and the majority of those living there as underdeveloped and neglected places and people. It is the willingness to offer the same generous and far-reaching considerations for our own underdeveloped areas and needy people as we do for others in foreign lands.

The price that we must be willing to pay is, above all, the willingness to accept as a partner in the American community and as a first-class citizen, the poor, the illiterate—black or white or red or yellow or brown—and give him a chance to make something out of his life. To do less is to admit failure.

Thomas Wolfe wrote: "To every man his chance; to every man regardless of his birth, his shining golden opportunity. To every man the right to live, to work, to be himself and to become whatever things his manhood and his vision can combine to make him. This . . . is the promise of America."

ADDRESS BY JOHN A. SIBLEY BEFORE GEORGIA FARM BUREAU FEDERATION

Mr. TALMADGE. Mr. President, John A. Sibley, one of Georgia's most distinguished business leaders and outstanding citizens, recently delivered a noteworthy address before the annual convention of the Georgia Farm Bureau Federation.

Mr. Sibley discussed the importance of land and productivity to the wealth and well-being of our people, and I was impressed by the eloquence and significance of his timely remarks.

I think them worthy of the attention of all who are concerned today with the importance of agriculture and its needs and problems. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

GEORGIA'S RENEWABLE WEALTH AND THE THREAT OF DESTRUCTIVE TAXATION

(Speech delivered by John A. Sibley before annual convention of Georgia Farm Bureau Federation, Augusta, Ga., November 14, 1967)

God's most precious gift to man is the land and its productivity. It is a special privilege for me to speak to the members of an organization who are engaged in the nurture, cultivation and protection of the soil and its productivity. You are engaged in planting and harvesting crops, producing meat and milk and protecting and increasing our great forest domain.

By your efforts new wealth is created each year that comes from the productivity of the land and that turns a stream of new wealth into the general economy of the state and nation. Of all occupations in which men are engaged for profit, yours is the most perilous and most important.

It is perilous because in addition to the ordinary business risk of other occupations, your success depends upon forces of nature over which you have no control, sometimes smiling and sometimes frowning upon your efforts; important because, in the last analysis, all other occupations, even life itself, are dependent upon the products of your labor.

To emphasize this fact we need only to remember that the productivity of our lands feeds and clothes all of us, furnishes the raw material for manufacture, industry and trade as well as safeguards our national security.

In this era of industrialization and urbanization, it seems to me that we may be falling into the grievous error of failing to understand and appreciate the paramount importance of the productivity of the land as it affects our economic welfare, our prosperity and our national security.

Perhaps a few examples, historic and current, will remind us that the protection and

preservation of the productivity of the land is a matter of supreme public interest and deeply concerns the economic welfare of the people as a whole.

Take for example the unfortunate situation that faces Great Britain. The British pound is periodically in trouble, threatening the economy of that great nation, with repercussions throughout the world. The fact is that the British pound reflects a fundamental weakness that is more deeply imbedded in England's economy. The basic trouble is that England's trade and commerce cannot cover the deficit caused by the failure of her lands to produce the necessary food and fiber to feed and clothe her people, to supply the raw material for her industry and to safeguard her security.

The failure of the potato crop, the source of Ireland's food supply, has occurred several times in history followed by starvation or migration of the Irish people. As a result, Ireland's population, once 8 or 10 million, is now less than 3 million.

Starvation in India today is caused by the failure of her wheat crop. Unlike the Irish, the Indians have no place to migrate and relief from starvation can only come from the generosity of more fortunate people whose renewable resources are greater than their immediate needs. This generosity though substantial is insufficient.

With these preliminary remarks concerning the importance of maintaining the productivity of our land, I will lay down several basic propositions that are relevant to the question of taxation of our farm and forest lands. I will discuss these propositions in more detail later.

The propositions are:

(1) The power to tax is the power to destroy, a principle announced by Chief Justice Marshall of the Supreme Court of the United States in the early days of our Republic—a principle that was sound when delivered and is sound today.

(2) A tax so heavy as to make the operation of a business unprofitable is an effective means to destroy that business. So a tax upon farm and forest lands so unreasonable as to make farming unprofitable is to destroy the business of farming. In such cases the power to tax becomes the power to destroy, as pointed out by Chief Justice Marshall.

(3) The public interest requires that a system of taxation be adopted for our farm and forest lands that encourages and stimulates the development of the productivity of these lands, thus increasing our renewable wealth and the development of our natural resources. This can be accomplished by taxing farm and forest lands upon their value as farms and forests but not by fixing as the taxable value of farm and forest land the price paid for other lands purchased for more intensive uses such as business sites, shopping centers and subdivisions.

(4) The spirit of fairness dictates, and the public interest demands that our renewable resources be preserved and developed, and that the occupation of farming be protected against the destructive power of excessive taxation.

In the light of the above propositions, let us now examine in terms of monetary and other values the significance of farm products to our general economy and the adverse effect of excessive taxation of farm and forest lands on the productivity of farm and forest lands.

The improvement in cash income from farms in the last thirty years has been spectacular both in the amount of increases and sources from which that income was derived.

In 1966 total cash farm income, excluding government payments, amounted to $1,015,808,000 as compared to $209 million in 1924. Of the 1924 cash income 62% was derived from cotton alone and livestock represented only 13.2% or $29,600,000. In 1966 cotton represented only 4.2% of farm income, whereas livestock, including poultry and eggs, amounted to $632,678,000.

The billion dollar business representing new wealth created by the farmer equals $228. per capita for Georgia's 4½ million people, whereas the new wealth created by the farmers in New York State is only $55. per capita for its more than 18 million people and for Pennsylvania only $79. per capita for its more than 11 million people.

Georgia must keep the productivity of her land in balance with her ever increasing population.

Of Georgia's $10,575,000,000. total income in 1966 farm and forest products directly and secondarily contributed 25½% and gave employment to 109 thousand people.

Now let us examine the importance of our forests to Georgia's economy. Our forest-based industries generate an annual income of a billiion dollars and provide employment for every fifth factory worker in Georgia at high-level wages.

Of the 37 million acres of land in Georgia approximately 26 million acres are in forests, representing some 69% of the entire acreage of the state. Moreover, 92% of the forest land is privately owned by more than 196 thousand owners.

Experts tell us that present forest areas can be doubled in yield by proper care and improved stands.

Trees, our most valuable single renewable resource, furnish raw material for many and varied businesses that feed our general economy.

A tree is much more than a stick of wood. To my mind, a tree is a growing chemical storehouse in which nature manufactures valuable raw materials for many useful end products. The use of wood in the construction and building trades, in furniture making and similar wood-based industries, as valuable as these businesses are, constitutes only a small part of the end uses derived from trees. Through scientific knowledge, cellulose fiber in trees can be isolated and by technology can be converted into many necessary articles of commerce.

Even more important are commercial articles derived from cellulose as the raw material for the manufacture of such varied products as women's dresses and lingerie, curtains, draperies, lamp shades, upholstery, men's summer wear, rain coats, carpets, plastic materials, photographic films, cellophane and food packaging of all kinds, military explosives, sponges, all grades of paper, including newsprint and many others.

Cellulose is indeed the magic raw material, the end product of which serves the necessities, comfort and convenience of modern man.

Georgia forest land, as a source of cellulose, is a powerful magnet which attracts industry to Georgia and has already attracted to the state pulp, paper and chemical cellulose mills, representing an investment estimated at $750 million or more of capital funds. These mills used over 5 million cords of pulpwood in 1964, and the amount is increasing each year. They furnish the tree farmer a valuable new source of available cash and result in the enhanced value of forest lands in Georgia.

Besides having developed a billion dollar wood-based industry, Georgia stands first in the number of privately owned forest acres, in the number of acres under organized fire protection and in the number of seedlings grown in State nurseries. Since 1945, 1,750,000,000 seedlings have been grown in state nurseries and 600,000,000 have been grown in forest industry nurseries. From 1964 to 1967 the State has produced 14,000,000 improved Loblolly and Slash Pine seedlings; Georgia has the Nation's largest tree improvement program, was the first to teach forestry in vocational schools, established the world's first forestry center and the world's first major forest fire laboratory, leads the Nation in tree farm acreage, produces more lumber than any state east of the Mississippi River and is the Nation's largest producer of naval stores.

Our state leads the Nation in pulp and paper production. This is a relatively new industry and developed here because of our forest resources and the knowledge that Georgia is nurturing and expanding these resources to meet future needs.

Georgia's trees furnished jobs for 65,984 persons, which generated wages amounting to $275,639,244, all of which come from more than 900 primary and secondary forest-based industries.

How important these forest-based industries are to certain counties of Georgia is illustrated by the fact that in Bibb County the payroll is $18,574,437 from such industries, and in Floyd County $63,504,000 and in Chatham County $44,695,192 and in many other counties payrolls represent a substantial part of the buying power and prosperity of that county.

The enlarged demand for this cellulose, so the experts say, must be supplied largely from the North American continent. Sweden, which for many years played a large part in meeting the world demand, is limited in area and has approached her maximum development.

The forest resources of the West Coast and Canada are very substantial but the cycle of growth is slow and the cost of harvesting great compared to our Southern pine.

Georgia is now in the forefront in meeting this demand for cellulose and has the opportunity to improve her position as a world supplier, as is evidenced by the progress that Georgia has made over the last twenty-five years in maintaining and improving her forest domain.

The policy of Georgia for the last quarter century has been to encourage the development of Georgia's forest domain. This policy is evidenced by the fact that the State is now spending yearly for forest protection, reforestation, forest management, research and education slightly more than nine million dollars, and in the last ten years has spent for these purposes more than fifty million dollars.

The question facing Georgia is, shall we destroy this renewable wealth, which is the basis of profitable wood-based industries, through the process of confiscatory taxation of the lands producing that wealth?

Unfortunately we are threatening to do so and have already done so in several counties of the state. This oppressive tax upon farm and forest lands usually arises through the process known as land re-evaluation. By the method used in that process, farm and forest lands are not treated as farm and forest lands and taxed on their value as such but instead farm and forest lands are taxed on the basis of the sale price of other lands which were purchased and sold for entirely different purposes and uses, such as shopping centers, subdivisions and industrial sites.

This method of re-evaluation overlooks the fact that to convert farm and forest lands to these more intensive uses requires thousands, and sometimes millions, of capital funds and that without the expenditure of such capital funds to develop these new and more intensive uses, high purchase prices for the lands have no economic justification. Many of the counties in Georgia are experiencing re-evaluations of farm and forest lands under this unreasonable and unfair method.

The appraisers employed to re-evaluate the lands are usually from the city or are unfamiliar with farming and its importance and are accustomed to dealing with the development of sub-divisions, shopping centers, business sites requiring the expenditures of capital funds.

The appraiser comes to a large body of land that has been a tree farm for more than a quarter of a century. The trees are inventoried by volume, types and varieties. Good forest practices, including selective cutting, have been consistently followed.

When the appraiser examines that farm he gives no consideration to the value of the land as a whole for the purposes for which it is used.

He frankly states that the use of the land as a farm is immaterial to him in fixing its value although he admits that the farm has been highly developed and properly managed as such for many years.

He then values each land lot separately, fixing its value on the suitability of that land lot for subdivision or other intensive uses.

In effect he has turned a bona fide tree farm into an imaginary subdivision. The appraiser reports to the taxing authorities as the value of the farm lands the price that other lands have been sold for that have been turned into subdivisions and shopping centers or other more intensive uses.

The land owner under such circumstances is forced by the coercive pressure of confiscatory taxation to cut his timber prematurely to pay taxes, or to quit farming and to sell his lands for speculative purposes, or to do both.

I am familiar with a county in Georgia where more than 85% of the lands were designated in 1961 as agricultural and forest lands and only 13% were used for residential, industrial, commercial, public buildings, streets and highways, public open spaces, vacant and water.

Yet under a system of re-evaluation such as I have described, the taxes on farm and forest land are so confiscatory that farming and forestry cannot be carried on in that county profitably. Under the coercive effect of taxation, timber is being prematurely cut, and the lands are fast being sold for speculative purposes.

Georgia is not the only state faced with this problem. Some 23 states have taken or are considering legislative action to prevent confiscatory taxation of farm and forest lands and to preserve and develop their renewable resources. These states recognized that such action was necessary to protect the public interest.

The State of Connecticut, in enacting laws to protect its farm lands, forest lands and open space lands from excessive taxation, made this strong declaration of public policy:

"(a) That it is in the public interest to encourage the preservation of farm land, forest land and open space land in order to maintain a readily available source of food and farm products close to the metropolitan areas of the state; to conserve the state's natural resources and to provide for the welfare and happiness of the inhabitants of the state, (b) that it is in the public interest to prevent the forced conversion of farm land, forest land and open space land to more intensive uses as the result of economic pressures caused by the assessment thereof for purposes of property taxation at values incompatible with their preservation as such farm land, forest land and open space land."

Georgia should make a similar declaration of policy, at the upcoming session of the legislature, followed by an appropriate constitutional amendment.

Florida, during the last quarter century, has experienced large increases in population, some permanent and some seasonal, and to accommodate the people, fruit groves and vegetable gardens have been turned into subdivisions, shopping centers and every other type of urban development. Lands that are worth $500 an acre as fruit groves may sell for five or ten thousand dollars or more per acre to be developed and used for more intensive uses.

The tax assessors in some instances began to raise the assessments on the orchards, groves, forest and other farm land to reflect in whole or in part the values established by the sales price of the nearby lands converted into new and higher uses. Taxes levied on these assessments were confiscatory when applied to agricultural and forest lands. The citrus fruit, forest and other farming enterprises could not survive such a burdensome tax assessment.

To save the production of these primary resources, Florida laws provide that farm and forest lands should be taxed at the value of those lands for the uses to which they are put.

The Florida law in no sense grants a tax exemption to farm and forest lands. The owners of the lands will continue to pay taxes and the lands will be valued as farm and forest lands. The law merely requires that the market value of the land for tax purposes is to be fixed by the uses to which the lands are put and not to be assessed at the price at which other lands have been sold that are put to higher and more intensive uses.

That means that when orchard, grove or forest lands are turned into a shopping center, a subdivision, or an industrial site the value of the property is then determined by the new uses.

It also means that the lands which continue in orchards, groves and forests will be taxed on the value of the lands for the purposes for which they are used, that is, as farms, orchards and forests, and not at the sales price of other land in the same neighborhood purchased and used for subdivisions, shopping centers and intensive developments.

The law also means that the appraiser cannot fix the value of agricultural and forest lands for tax purposes at the prices paid for other lands no longer used as farm or forest lands but which have been converted to higher and more intensive purposes.

Under such a system the farmer is not forced to sell his lands to speculators because of confiscatory taxation which places upon his lands speculative values based on the sale prices of lands not used for agricultural purposes.

Under this system the public interest is served because the lands continue in the hands of land owners who desire to farm and the productivity of the lands continues to put into the general economy annually a stream of new wealth.

It is such a system as this that Georgia should adopt in order to preserve and develop her natural resources.

Many states in the Union, recognizing the value of the productivity of their forest and farm lands to the general economy, have devised systems of taxation which encourage the use of lands for productive purposes.

God in His goodness has favored Georgia with great renewable natural resources; are we wise enough to appreciate, nurture and expand them?

The answer to that question is vital to the prosperity and wellbeing not only of present but of future generations.

ROLE OF PRIVATE ENTERPRISE IN GOVERNMENT PROGRAMS

Mr. MUSKIE. Mr. President, on October 13–14, 1967, the Advisory Commission on Intergovernmental Relations sponsored a national conference on legislative leadership. This conference brought together speakers, senate presidents, majority and minority leaders from the various State legislatures, Members of Congress, and representatives from the academic community for a look at ways in which "bridges might be built between State legislative bodies and the National Congress." Over 125 State legislators and others attended the conference in Washington.

The Advisory Commission, of which I am a member, along with the senior Senator from North Carolina [Mr. ERVIN] and the senior Senator from South Dakota [Mr. MUNDT], is to be commended for its initiatives in holding this conference. In 1966 the Senate and House Subcommittees on Intergovernmental Relations considered the 5-year record of the Commission and made suggestions for its continuation, including some changes in emphasis and direction. Among the suggestions made was that the Commission, from time to time, convene national conferences on major problems in the field of intergovernmental relations. The conference between congressional and State legislative leaders was needed because State legislatures have gone unattended and relatively unrecognized for too long, despite the fact that they are a very important part of our American governmental system.

Mr. President, in one of the conference sessions, Vice President HUMPHREY addressed the assembled delegates on the general subject of what State legislatures could do to help make Federal programs more flexible and realistic. As on many occasions, I find myself in complete agreement with the principal points made by the Vice President in his address to the legislative leaders. I was particularly impressed by his emphasis on the role of private enterprise in providing jobs for unemployed youth and for suggesting that the State legislatures begin to experiment in ways to further the cooperation between government and business in combating problems of unemployment and economic deprivation.

Mr. President, I ask unanimous consent that the excerpts from the Vice President's remarks be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS FROM REMARKS OF VICE PRESIDENT HUBERT H. HUMPHREY

The general theme of my conversation about the country is that through a partnership among Federal, State and local governments and the private sector, we are trying to upgrade the quality of American life, maximize the performance of the American community, and energize and revitalize the lives of our people. I don't believe that is a naive philosophy nor do I think it is a far-fetched hope.

One of the main difficulties in America today is lack of satisfactory communication between the executives and the legislators of the different levels of government. We have this problem even at the federal level, and here we have had a determined and considerable program to keep in close touch with our legislative leaders in the Congress, both majority and minority. I mention this at the Federal level because I think this is the secret of governmental progress. You make progress out of cooperation, out of adjustment, sometimes out of compromise, but at all times out of promoting a better understanding among those who have responsibility, and the responsibility of a legislator, State or Federal, is tremendous.

We at the Federal level must work not only with our Congress, but we must also work with the legislators, particularly with the legislative leadership, at the State level. Practically every program initiated by the Fed-

eral Government in recent years requires active cooperation and participation by the State—if not by the State government, at least by an instrumentality of the State which must be authorized by State legislation.

All the programs we have, everything from highways to the poverty program, depend upon your cooperation. If we are going to do anything about air and water pollution or better education, about cities' problems or the problems of rural America, it will in large measure depend upon what the State legislatures are willing to do. When the State legislatures do not give consideration to the needs of cities, the mayors just come pell-mell down to Washington and start a major war on you. That is exactly what has happened.

Many times we in Washington are prone to think of the United States of America as if it were one solid board with one permanent grain all the way through it, with no variations. But, this is a pluralistic society. It is a mosaic. It is not a monolith, it isn't a national community that has one culture, one ethnic group, one religion, one type of economy. It is a mixture. That is its vitality, its beauty, and that is also its complexity. Therefore, when national legislation is passed, we must realize that it must be rather broad in principle and have adaptations that fit the State and the community. That is where you come in with your advice and with your counsel.

I have noticed in the last year that some legislative leaders are beginning to testify before Congress. That is exactly what we need. We need to hear from the majority leaders and minority leaders of the State legislatures on every bill of any consequence that requires State cooperation. We need to hear from your governor, too, who represents the total State. We really need your counsel and advice.

In one of our cabinet meetings, the President of the United States said, "Before you start sending up legislation, I want you to double check with governors and with legislative leaders to see what the bugs are in this, to see if this is the sort of thing that will work, to see that this is the sort of thing that is needed." It doesn't mean that we will veto something that we planned on doing, but I think that rational and reasonable men will take your advice seriously.

Might I suggest that you do the same in your State legislature; that if there is legislation that affects local government, you should talk with the local people.

The partnership that we need between Federal and State, between President and Governor, between Senator, Congressman, and State legislator, between President and Vice President and between Majority Leader and Minority Leader is one of mutual respect and one in which we each carry our share of the load, where we can talk it out ahead of time.

Now I am going to be more specific. What are some of the critical needs today? I think you know them.

First of all, in our poverty areas, and every State has some, the basic need is a job! That job can best be provided through private industry, and I think it is the duty of every officer in the Federal and State Government to work with private industry to find out how those jobs can be provided.

The people that are unemployed today, most of them, are what we call unemployables. These people are unskilled, oftentimes poorly educated, all too often discouraged and frustrated, sometimes hostile and cynical.

They have a debate going on in Congress now about training people that are on welfare. I believe these people should be trained if physically able. We are not trying to build a welfare State in this country. We are trying to build a State of Opportunity!

The easiest thing for a man in government to do in a rich society is to write a check, even if he has to write it on borrowed money. You can have checkbook welfare and checkbook compassion, too. I believe that the handicapped, people really in need, children and mothers that cannot work, and children that are unable to work, of course, need to have welfare, compassion, and charity.

But I want to say that charity and welfare can be carried too far. What you really ought to do is start to separate the welfare cases from the opportunity cases. And that means that we need to emphasize the training, the education and the development of human resources, not by the opiate of a welfare check, but by the exciting experience of training and guidance and education and counseling and motivation.

I happen to think that this is where all levels of government have a role and it cannot all be done by the Federal Government by any stretch of the imagination. The Government of the United States is not in Washington. Just part of it is here. It is in the State capital, in the county seat, and in the city hall. That is where the government is closest to the people.

I think State legislative bodies, along with the State governors, should start to think about how they, in their States, can work through their school system, through their training institutes, through their private enterprise, to get the hard core unemployed employed, trained, on the job, and productive. The greatest single source of new economic power in America is in the poor.

We have hundreds of thousands of workers unemployed today because they are unemployable according to certain standards. We need to beneficiate those people. This is what can happen in America. I visited a training program conducted by the Alameda Central Labor Council in Alameda, California. They were training welders and on the morning I arrived, six welders got a job. And who do you think they were? They were hard core unemployed who never had a job in their lives, and most of them had been in jail or a reformatory. They had already placed over a hundred of them. Every one of them had been a welfare case or had been in a penal or a correctional institution.

Examples such as the Alameda program show that it can be done. I think the jobs ought to be in private industry. I think that we have had far too much emphasis upon the Federal Government trying to do it alone. I think every State legislature ought to take a look at its tax laws to see whether there are any tax incentives you can give your private industry to train workers in your State.

I am here to ask you to innovate at the State level. I think our State legislatures are the laboratories of democratic government, and I am of the opinion that when we're talking about what the Federal Government ought to be doing, we need some test areas to see how it really works.

So I ask you to give your attention to jobs and to urban legislation. In the model city bill we have put together for the first time a program that permits participation by State Government, local government, and private groups in the rebuilding of a neighborhood and of a city.

I have called the model cities program a Marshall Plan for the United States. I still do, because that is what it is. It provides for realistic planning—Federal, State, and local. And it provides for private initiative and private participation. We are not going to rebuild America out of Washington. We are not going to rebuild America out of public funds. We are going to do it out of private funds. The public can help. The public can give the extra measure, the loan guarantees, maybe the tax incentives. The public can help with the planning money and with the technical assistance. But to rebuild America as it needs to be in some areas is going to take private investment, private encouragement, private initiative, and that is going to require our cooperation.

I ask you to help us in our youth program. I am Chairman of the Youth Council. The Youth Opportunity Program is designed to help youth get started on the right foot. We have to find jobs for young people so that they are exposed to wholesome environments on the playgrounds, in jobs, and in training programs. I have called upon every Governor and every Mayor in America to set up a Youth Opportunity Commission. More crimes are committed by people 15 or 16 than by any other group. That young man or woman is a restless soul, and the greatest source of power is not atomic power but youth power. It should be directed to constructive purposes.

Last summer, we provided 1,400,000 jobs for young people. A year ago, it was a million. This last summer, we provided 25,000 camping experiences in Boy Scout camps across the United States, through the help of private individuals in your communities, and with some help from the Federal government.

What about a camping program in your State? What can you do about it in the next legislative session? Do you have enough camps? Are you really interested in getting these young people a camping experience?

What about a job program? Have you called upon the employers in your State? Has your Governor set up a commission or a youth council to energize the private and public resources of your State to take care of youth problems?

We have agencies and institutions that take care of those in trouble. Every time one gets arrested you give him attention. But they have to get in trouble before they can be rehabilitated. What about keeping them out of trouble? What about a youth program in every State—not in Washington alone? I call upon you to do something when you go back to your State legislature, if it is only passing a resolution called the attention of the people in your State to the fact that the number one asset is their youth, that in your State, there are a number of them without jobs, without part-time jobs, without adequate education, and that in the summer, they're standing on the street corners. They ought to be in a factory, in a wholesale house, or on a road job. They ought to be working, and they can be.

I'm happy to tell you that private industry is excited about this. All over America, we're getting help now.

In Kansas City this summer a hundred businessmen organized into a committee. They went from plant to plant and they put on 2,200 young people that never had jobs before in private industry. These were hard-core unemployed that would be involved in trouble unless they were at work.

In summary, we need you, and I think you need us. I think we ought to consult on legislation before the legislation becomes a reality. We need your counsel and advice. I ask you to take a good look in your home State. What can your legislature do to stimulate not just the War on Poverty but the Adventure of Opportunity. We need the revitalization of State government in America as we have never needed it before. We need to understand that the power of this Nation is in its people and its private resources. We need to follow that philosophy and we need to make our government a partner with the private sector. I appeal to you to take the lead and we'll try to cooperate.

DEATH OF DR. ALAN T. WATERMAN, FIRST DIRECTOR OF NATIONAL SCIENCE FOUNDATION

Mr. HILL. Mr. President, last Thursday, November 30, 1967, our country suffered a great loss in the death of Dr. Alan T. Waterman.

Dr. Waterman was the first Director of the National Science Foundation, and he laid the foundation for many magnificent accomplishments in basic research. He was a dedicated citizen, a man of tremendous vision, and achieved so much for our country and for all the peoples of this earth. He was truly a great American, and he will be sorely missed.

I ask unanimous consent to have printed in the RECORD a tribute to him by Dr. Leland J. Haworth, his successor as Director of the National Science Foundation; a biographical sketch of him; a statement of his many, many achievements; and a list of the honors and awards so rightfully given him.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

STATEMENT BY DR. LELAND J. HAWORTH, DIRECTOR OF THE NATIONAL SCIENCE FOUNDATION

It was with deep sadness that I learned of the death of Alan Waterman, the first Director of the National Science Foundation. Alan Waterman successfully guided this organization from a small beginning to a position of strength and influence. He, more than any other single person, made the Foundation an important bulwark of the Nation's scientific strength. He left his own indelible mark of quality and of integrity in every field of activity in which the Foundation was involved.

When Alan Waterman took the helm of the fledgling agency in 1951, few in Government recognized the importance of basic research in the total spectrum of the Nation's scientific and technological enterprise. Alan Waterman was one of those few; his work at the Office of Naval Research had already established that agency's leadership in providing financial support for basic American science. When he came to the Foundation he began to build another organization through whose efforts science could develop strength commensurate with its promise and with the Nation's needs.

Following the precepts set forth in the famous report by Vannevar Bush, "Science, the Endless Frontier," as embodied in the National Science Foundation Act of 1950, Dr. Waterman, in concert with the National Science Board, established the basic philosophy still used in the Foundation, whereby scientists themselves largely determine the direction and progress of basic research. The Foundation early established the pattern of giving strong support to research at the Nation's colleges and universities where much of the best basic research and all of the training of future scientists, engineers, and physicians is carried out. To the widely endorsed concept of providing strong support to advanced students already committed to scientific careers, the Foundation, under his leadership, added the next logical step of assisting improvement of scientific education on the earlier rungs of the educational ladder. Thus the Nation is also strengthened through a better informed citizenry, with an ever-increasing depth of understanding of what science is, and what part it plays in the lives of everyone.

That he built the Foundation well and soundly is attested by the present size and strength of its programs and the degree to which the principles and policies laid down during his tenure continue as guides to this day. It was a mark of the man that all who were associated with him at the Foundation retain not only a deep respect for him as their mentor and leader, but the greatest affection for him as a gentle, warm, and sensitive human being. All of the Foundation mourn his passing, and extend our heartfelt sympathy to Mrs. Waterman and others of his family.

Funeral services will be conducted at 3 p.m. Monday, December 4, at All Souls' Unitarian Church, 16th and Harvard Streets NW.

ALAN T. WATERMAN

Dr. Alan Tower Waterman was born on June 4, 1892, at Cornwall-on-Hudson, New York. He married the former Mary Mallon of Cincinnati, Ohio, on August 28, 1917. With their family they celebrated their Golden Wedding Anniversary this summer. There are three sons: Alan T., Jr., of Stanford, California; Neil J. of Cocoa Beach, Florida; Guy V. of Stamford, Connecticut; and two daughters: Barbara (Mrs. Joseph C. Carney) of New Canaan, Connecticut; Anne (Mrs. William C. Cooley) of Bethesda, Maryland. The Watermans reside at 5306 Carvel Road, Washington, D.C. 20016. There are 16 grandchildren.

Dr. Waterman did both his graduate and undergraduate work at Princeton University, receiving the degrees of A.B., 1913, M.A., 1914, and Ph. D. in physics in 1916. His research included investigations in the fields of conduction of electricity through solids; thermionic, photoelectric emission and allied effects; and electrical properties of solids. After receiving his degree, he became an instructor in physics at the University of Cincinnati. In World War I, he spent two years in the military service (private to first lieutenant) with the Science and Research Division of the Army Signal Corps, where he was engaged in meteorological work. At the close of the war he joined the faculty of Yale University and remained in the Department of Physics until going on leave of absence in 1942 during World War II. During his tenure at Yale Dr. Waterman was on leave of absence on two other occasions: in 1927–28 on a National Research Council Fellowship to King's College, London, England; in 1937 to the Massachusetts Institute of Technology.

From 1941 to 1945 Dr. Waterman was associated with the Office of Scientific Research and Development (OSRD), the wartime agency headed by Dr. Vannevar Bush, first as Vice Chairman of Division D (detection, controls, instruments) and as assistant to Dr. Karl T. Compton, Member, National Defense Research Committee, as Member, Microwave Committee, and then as Deputy Chief and later Chief of the Office of Field Service.

Dr. Waterman served from 1946 to 1951 as Deputy Chief and Chief Scientist of the newly established Office of Naval Research, Department of the Navy.

On April 6, 1951, Dr. Waterman was appointed by President Truman as the first Director of the newly formed National Science Foundation, for a six-year term. In 1957 President Eisenhower reappointed Dr. Waterman to this post. Although he reached the compulsory retirement age prior to the expiration of his second term, Dr. Waterman continued to serve in this post until June 1963 at the special request of President Kennedy.

Since that date he continued an active interest in science and education through service on numerous boards and committees, as follows; Board of Trustees, Atoms for Peace Awards; Federal Woman's Award Board, Civil Service Commission; Advisory Board, Georgetown University Center for Strategic Studies; Liaison Committee on Science and Technology, U.S. Library of Congress; Special Consultant to the President, National Academy of Sciences and Chairman, Committee on Scholarly Communication with Mainland China; Consultant to the Administrator of the National Aeronautics and Space Agency (NASA) and Member, Historical Advisory Committee of NASA; Consultant to the National Science Foundation; Advisory Committee, Pacific Science Center, Seattle, Washington; Board of Trustees, University Corporation for Atmospheric Research.

Dr. Waterman was a fellow of the American Association for the Advancement of Science (He served as President in 1963 and Chairman of the Board in 1964), the American Physical Society, the New York Academy of Sciences. He was a member of the American Association of University Professors, the American Institute of Electrical Engineers, the American Rocket Society, the American Polar Society, the Washington Academy of Sciences, the Washington Academy of Medicine, Phi Beta Kappa, Sigma Xi, the Scientific Research Society of America, and the Washington Philosophical Society.

Dr. Waterman had a great appreciation for music and was himself an accomplished musician. He was one of the relatively few persons who mastered the art of the Scottish bagpipes, and on many occasions shared this special talent with family and friends. He for many years played the violin, cello and viola in a string quartet, first established during his undergraduate days at Princeton University and later composed of his Washington scientific colleagues. He also frequently entertained his associates on the piano and guitar.

Another major interest was his love of the woods. He became a licensed guide in the State of Maine very early in his lifetime, and he continued this activity whenever his official duties permitted a rare canoe or camping trip.

Dr. Waterman was a member of the Cosmos Club, the Princeton and the Yale Clubs of Washington, D.C., and the Graduates Club of New Haven, Connecticut.

STATEMENT OF ACHIEVEMENTS OF ALAN T. WATERMAN

During the decade and a half in which Dr. Alan T. Waterman served first as Chief Scientist of the Office of Naval Research and later as Director of the National Science Foundation, he worked tirelessly in the cause of basic research and education in the sciences. Through his leadership of these two major scientific agencies and through a continuing campaign of travel and speaking throughout the Nation, he sought to impress upon the people of the United States the importance of science and well trained scientists. As a result, in no small part of his personal efforts, the Federal Government has adopted broad policies for the enlightened support of both.

The establishment under Dr. Waterman's leadership of two major scientific agencies of the Government has had beneficial and far-reaching effects on the research effort of the United States. The policies and programs of those agencies will certainly influence the progress of science in this country for many years to come.

Recognizing the crucial role of the Nation's universities, both as the natural home for basic research and as the source of training for young scientists, Dr. Waterman sought to strengthen their capacity for carrying out these functions effectively. At a time when the intrests and funds of the Federal Government were concentrated on the solution of problems of an applied nature, largely in the fields of defense and atomic energy, he stressed the long-range importance of furnishing adequate support through the universities to uncommitted investigators working in very basic areas whose future importance or significance could not be anticipated. He sponsored the Federal grant as a flexible and useful means of support for such investigators and helped to establish the grant mechanism along liberal and nonrestrictive lines. When its usefulness had been amply demonstrated by National Science Foundation practice, he successfully sought legislation to extend its use to other Federal agencies that were also engaged in the support of basic research.

Out of his deep conviction of the need for a strong and diversified basic research effort throughout the country and as a result of his direct observations in the Office of Naval

Research of the importance of basic research to operating agencies, he urged, as Director of the National Science Foundation, that all Federal agencies engaged in research and development be permitted to support research basic to their missions. He rejected the idea that the Foundation should be the sole agency for the support of basic research. His recommendations on this point were adopted as national policy in Executive Order No. 10521 of March 17, 1954.

In full awareness of the unpredictable nature of basic research, Dr. Waterman consistently pointed out that the best long-range insurance of the Nation's strength, both in science and technology, was the support of basic research in all fields and not merely in national problems. As a result, the Foundation conducts a continuous review of work and progress in the various fields and seeks to bolster those where efforts appear to be lagging or inadequate.

Although support of the social sciences was merely permissive in the National Science Foundation Act of 1950, Dr. Waterman from the beginning acknowledged their importance and sought to develop a sound basis for their support. During his directorship there was steady growth and support of research in the social sciences.

In his role as principal advocate of Federal support of basic research and education in the sciences, Dr. Waterman was acutely aware that the basis for such support cannot and should not be arbitrarily decided in Washington. He urged the importance of calling upon the scientific community for advice and assistance in all stages of developing Government support programs. Hence, scientists and engineers serve in advisory and consultant capacities at policy-making levels and also at operating levels in evaluating proposals submitted for research support. The present system makes possible a very wide range of support, from limited support of small projects in a narrow field to very broad support in so-called coherent areas of research involving the interdisciplinary approach to the solution of large problems.

The principle of stability and continuity was also recognized. Under Dr. Waterman's leadership the Foundation sought to overcome the limitations of short-term support and to devise ways and means whereby support could be appropriately extended over a period of several years.

From the inception of the Foundation, Dr. Waterman stressed the importance of science education and of adequate training of science teachers as fundamental prerequisites to the long-range strength of American science. The various programs devised by the Foundation to strengthen science education have had a profound impact on the educational system as a whole and have revolutionized the teaching of science in the United States.

Through a gradually expanding program of fellowships, the Foundation has tried to insure that the means of acquiring graduate education in science is available to the best qualified and most promising students. Beginning in 1953 with small pilot projects, the Foundation undertook to improve the quality of the Nation's science teaching by means of summer institutes for teachers of high school and college mathematics and science. Course content and curriculums for the high school teaching of science have been completely revised and updated introducing entirely new approaches in the secondary schools.

Thus, by the time the attention of the Nation was seriously focused on the crisis in education—and science education in particular—by the launching of the first Soviet sputnik in 1957, the Foundation, under Dr. Waterman's able leadership, had already made a broad attack on the problem through well organized programs along the several lines of endeavor that have been cited.

As it has worked to obtain recognition and support for basic research and education in the sciences, the Foundation has also been fully alive to the need of the universities themselves for outside help in order to meet the extra burdens imposed by the rapid development of science and technology. In an effort to redress somewhat the imbalances created in the financial structure of educational institutions by the large amount of Federal money earmarked for specific purposes, the Foundation under Dr. Waterman's leadership initiated a program of institutional grants.

In its relation to the national research and development effort as well as to the research and development programs of other agencies, Dr. Waterman emphasized the fact-finding role of the National Science Foundation. Until the Foundation undertook the systematic collection of data on the extent and nature of the Nation's research and development effort, adequate basis was lacking for the formulation of policy as well as for charting the paths that the research and development effort should take for the future. Through the Foundation's efforts in acquiring information about the basic research efforts of other agencies, Dr. Waterman prepared the way for the more effective coordination of these programs, thus anticipating and facilitating the work of the Federal Council for Science and Technology.

The full measure of Dr. Waterman's contribution to the national welfare in terms of progress in science and technology in the United States cannot be fully assesed because it is difficult to gauge how far behind we might be were it not for his far-seeing and statesmanlike efforts. In the hiatus between the termination of the Office of Scientific Research and Development and the creation of the National Science Foundation, he molded the Office of Naval Research (ONR) into an effective instrument for the support of basic research. The Navy was concerned with maintaining the strength of the Nation's scientific effort through what might have become a serious letdown during the postwar period. Responsible naval officials were aware of existing and potential deficits in the numbers of scientists and technically trained people, and they were also anxious to maintain the effective relationships between Navy personnel and scientists in academic and industrial institutions that had developed during the war.

The law establishing the Office of Naval Research was signed in August 1946. As one of the principal architects of its policies and programs, Dr. Waterman helped to establish the patterns of research support that were successfully used by ONR and later widely adopted by other agencies. He interpreted broadly and with imagination the types of research that were of interest to the Navy and thereby provided a means of support for very fundamental research that might otherwise have gone unsupported. He understood the temperament and working habits of scientists and was careful to keep the support mechanism as free as possible from administrative detail and red tape. Under his guidance ONR drew heavily for advice on existing organizations of scientists, such as committees of the National Research Council, groups of special technical competence within the Navy itself, and, where necessary, it established advisory committees of scientists outside the Navy.

The Office of Naval Research served the purposes of the Navy well. But more than that, it became a model for Government support of basic research, and it demonstrated effectively the need for a National Science Foundation with the power and authority to support such research on an even broader basis.

Following its establishment by the Congress in 1950, the Foundation commenced operations in a period of public apathy toward scholarly research and education in the sciences. Dr. Waterman worked resolutely from small beginnings and embarked on a personal campaign to educate the public to the importance of both basic research and education. He successfully focused the attention of the Congress on these problems and commanded its respect and admiration, as evidenced in the steady annual increases in the appropriations for the Foundation. From an initial operating appropriation of $3.5 million, funds for the Foundation had increased more than ten fold—to $40 million by 1957, when the first sputnik was launched.

Throughout his dedicated career of public service, Dr. Waterman was always deeply aware of the importance to the national welfare of research on the frontiers of science and of the need for adequately trained scientists of proven aptitude and ability. His leadership was finely balanced between a sympathetic understanding of the purposes and needs of the scientific community and of the obligations and responsibilities of the Federal Government. He was held in high esteem by his colleagues in the scientific and educational communities.

HONORS AND AWARDS OF DR. ALAN T. WATERMAN

1948: Presidential Medal for Merit for his war work with the Office of Scientific Research and Development.

1952: Princeton University, Class of 1913, Class Memorial Cup "in recognition of his meritorious and outstanding service to his profession and his country."

1957: The first annual Captain Robert Dexter Conrad Award, established by the Office of Naval Research in recognition of outstanding technical and scientific achievements in research and development for the Navy, was conferred upon Dr. Waterman on March 19, 1957.

1958: Distinguished Service Award of Jacksonville University, Jacksonville, Florida.

1960: The National Academy of Sciences awarded its Public Welfare Medal to Dr. Waterman for "eminence in the application of science to the public welfare." The award is unique in that it is given for outstanding public service in the uses of science rather than for achievement in any particular scientific discipline.

The Proctor Prize, awarded annually by the Scientific Research Society of America for outstanding contributions to research or research administration, was also given to him in 1960.

1961: Annual Midwest Research Institute citation on May 1, 1961, for his leadership and direction of the National Science Foundation in basic research and scientific education.

1963: The Presidential Medal of Freedom was awarded to Dr. Waterman on December 6, 1963. President Johnson presented the medal, the nation's highest civilian award, to Dr. Waterman whose citation noted that as physicist and public servant he has been the far-sighted advocate of Federal support of the sciences, using the resources of Government to improve the quality and increase the thrust of basic research.

Dr. Waterman was cited by the Bronx High School of Science as "Citizen Scientist of its Silver Jubilee Year."

The Board of Geographic Names of the United States Department of the Interior approved the naming of a mountain in Antarctica in Dr. Waterman's honor. Mount Waterman is in the Hughes Range of the Queen Maud Mountains overlooking the Ramsey Glacier which drains into the Ross Ice Shelf and is some 350 miles from the South Pole. Mount Waterman is adjacent to Mount Bronk, which was named simultaneously for Dr. Waterman's close personal friend and colleague of many years, Dr. Detlev W. Bronk, President of Rockefeller University and at that time serving as Chairman of the National Science Board. The naming of this mountain in Dr. Waterman's honor stemmed

from the desire of his colleagues and friends in the scientific community to establish a permanent reminder in Antarctica of his invaluable contribution to the inauguration of a strong scientific research program on that continent. It also recognized his efforts to foster an acceptable international program and his keen interest and strong support in maintaining a viable U.S. Scientific Program in Antarctica.

On June 6, 1963, Dr. Waterman received a certificate from the Director of Defense Research and Engineering "in sincere appreciation of the time and effort he has so generously devoted to the interests of the Department of Defense during his service as a member of the Defense Science Board since September 1956. I take great pleasure in honoring him with this Citation for his patriotic service."

1966: The American Meteorological Society presented the Cleveland Abbe Award to Dr. Waterman for distinguished service to the atmospheric sciences, as evidenced by contributions to the development of the double-theodolite method for tracking balloons and measuring upper winds and for furthering the progress of meteorology when he was Director of the National Science Foundation.

The Edwin Bidwell Wilson Award of the National Academy of Sciences for outstanding contributions in the service of the Federal Government to the effectiveness of its efforts, in the pursuit of its concerns to encourage and to benefit from the advancement of science was awarded to Dr. Waterman in recognition of achievements set forth in the following citation:

"As creative scientist and administrator of exceptional talent, he has exerted far-reaching influence on the development of science, as well as on its conduct in the framework of national purpose and public policy.

"He pursued a career in the public service of pioneering new patterns of Federal scientific activity, serving successively as a key member of the war-time Office of Scientific Research and Development, as the first civilian leader and intellectual inspiration of the Office of Naval Research, and as Director of the National Science Foundation from its birth to its maturity.

"His broad understanding of science, his foresight, and his seasoned judgment have enabled him to guide the organizations under his leadership in the creation of a resilient partnership between science and public affairs which is now a vital element in the intellectual heritage of this country."

1967: The American Institute of Physics Corporate Associates at its tenth annual meeting on October 1–2 awarded its Karl Taylor Compton gold medal to Alan T. Waterman for statesmanship in science. Dr. Frederick Seitz, President of the National Academy of Sciences, reviewed Dr. Waterman's role in helping physics attain a respected place in society and the medal was presented by AIP Governing Board Chairman Ralph A. Sawyer who cited Dr. Waterman for "his contributions to the science of physics and his leadership in the evolution of policy determining the growth and support of science in the United States."

HONORARY DEGREES

Doctor of Science: Tufts College, Northeastern University, University of Vermont, the University of Arizona, Bowdoin College, the University of Akron, University of Southern California, Norwich University, the University of Notre Dame, Kenyon College, Loyola University, the University of Pittsburgh, Boston College, and Polytechnic Institute of Brooklyn.

Doctor of Laws: Cornell College, Mount Vernon, Iowa; American University, the University of Chattanooga, the University of Michigan, the University of Cincinnati, the University of California, Berkeley, Illinois Institute of Technology, Rockefeller University and Michigan State University.

Doctor of Public Service: Denison University, Granville, Ohio.

EXCERPTS FROM MESSAGES ON DR. WATERMAN'S RETIREMENT AS DIRECTOR OF THE NATIONAL SCIENCE FOUNDATION

At a dinner on June 21, 1963, on the occasion of his retirement as the first Director of the National Science Foundation, President John F. Kennedy wrote:

"When Dr. Waterman became Director of the NSF in 1951, the Nation's attention was then focused on immediate challenges to Western security all around the world. Amid those pressures, it was perhaps understandable that many should fail to appreciate the long-range importance to American security and progress of strength in science, for which Alan Waterman became an eloquent and sometimes solitary spokesman. It is a tribute to the efforts of Dr. Waterman and others like him that a decade later, without relaxation of the pace and magnitude of our daily needs, this Nation should be strongly committed to progress in education and to increasing man's store of fundamental knowledge.

"Through the work of the Foundation in sponsoring basic research, the Nation has embarked on exciting and critical adventures in science that will contribute importantly to human progress. The NSF has helped extend our horizons to the innermost workings of man and his society and the outermost reaches of our planet and the universe.

"In the process, the Science Foundation has pioneered in the development of new arrangements for supporting the attack on the frontiers of science and in giving both greater breadth and higher quality to American education. This difficult task has been carried on under Dr. Waterman's guidance through a partnership with American universities and the scientific community in which the Foundation has earned for itself the reputation for the excellence that it has so eloquently urged as a fundamental national goal."

Dr. Vannevar Bush, close personal friend and colleague, who first proposed the establishment of the National Science Foundation, concluded the major address on this occasion by stating:

"Alan Waterman. We respect you for the devotion, integrity, and wisdom with which you have carried out a great undertaking over the years. You have rendered the name of scientist in Government halls a name of honor and worthiness. You have accomplished a thing which is rare: you have moulded the course of science in this country in salutary manner for many years, and at the same time made yourself a host of devoted friends. We salute you and wish you well. As long as this country has men of your calibre in its service, we need fear no rocks."

NATURAL-BORN CITIZENSHIP AS A QUALIFICATION FOR THE PRESIDENCY

Mr. JAVITS. Mr. President, article II, section 1, clause 5 of the U.S. Constitution declares that "No Person except a natural born Citizen . . . shall be eligible for the Office of President."

As we know, one announced candidate for that office, Gov. George Romney, of Michigan, was born of American parents in Mexico. In a scholarly article in the New York Law Journal of November 15, Eustace Seligman, a member of the New York bar since 1914 and a senior partner in the firm of Sullivan & Cromwell, traces the history of this clause and comes to the conclusion that Governor Romney is, indeed, a "natural-born citizen" and as such is eligible for the Presidency.

I ask unanimous consent that Mr. Seligman's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A BRIEF FOR GOVERNOR ROMNEY'S ELIGIBILITY FOR PRESIDENT

(By Eustace Seligman)

This is a reply to an article by Professor Isidor Blum which appeared in the New York Law Journal on October 16 and 17 and which contends that Governor George Romney of Michigan is not eligible to be President. This article takes the contrary position. It relies upon the legal principle set forth by Hackworth in his Digest of International Law, Volume III, Chapter IX, page 2: "Nationality may be acquired by birth or by naturalization. Nationality at birth may result from birth in a territory of the state, jure soli, or from birth outside of the territory of the state to parents who are nationals of the state—referred to as nationality by blood, or jure sanguinis" and establishes that a natural born citizen means a citizen by birth of either category and is not limited to one born in the United States. Since Governor George Romney was a United States citizen by blood from birth, he is a natural born citizen and therefore eligible to be President.

I. PRELIMINARY

The constitution in Article II, section 1, clause 5, reads as follows:

"5. No person except a *natural born* citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States." (Italics supplied.)

On the date of Governor Romney's birth, the law in effect with respect to the children of citizens born outside of the United States was section 1993 of the Revised Statutes of the United States, which read as follows:

"All children heretofore born or hereafter born out of the limits and jurisdiction of the United States, whose fathers were or may be at the time of their birth citizens thereof are declared to be citizens of the United States; but the rights of citizenship shall not descend to children whose fathers never resided in the United States."

Governor Romney's father, Gaskell Romney, was a citizen of the United States who had been born in 1869 and had resided in the United States until 1884 when he was taken by his parents to Mexico. While there he maintained his citizenship, and in 1895 he married. Governor Romney, his fourth child, was born in Mexico on July 8, 1907; he came to the United States in 1912 and has continued to reside here. In 1926 he had his first passport issued by the State Department upon the basis of affidavits setting forth the above facts.

II. THE MEANING OF THE TERM "NATURAL BORN CITIZEN"

The authorities define the term "natural born citizen" as one who is a citizen from birth:

The word "natural" is defined as "being such by nature" or "born such" and an example given of its meaning is "a natural fool" (The Random House Dictionary, p. 952, 21; The American College Dictionary, p. 809, 22).

The word "natural" is defined in the Oxford Dictionary (Vol. VI, p. 38) as being "present by nature; innate" and also as a

"native of a place or country," but it notes that the latter is obsolete, having been common in 1580–1650.

The term "natural born" is defined in the Oxford Dictionary as: "having a specified position or character by birth; used esp. with *subject* (Vol. VI. p. 38).

The term "natural born" is defined in Webster's Dictionary as "having a certain status or character by birth—as natural born citizen genius."

Ballentine's Law Dictionary defines the term "natural born citizen" as: "A citizen by birth, as distinguished from a citizen who has been naturalized."

Dicey gives the following definition of the term:

"(2) A British subject must be either

"(a) a person who is or becomes a British subject on and from the day of his birth, and is called a natural-born British subject; or

"(b) a person who becomes a British subject at some day later than the day of his birth, i.e., who is not a natural-born British subject" (Dicey, Conflict of Laws, 5th ed., 1932, p. 142).

Frederick Van Dyne, Assistant Solicitor of the Department of State, makes the following statement:

"A child who acquires American citizenship by birth to an American father abroad, under Rev. Stat., sec. 1993 (U.S. Comp. Stat. 1901, p. 1268), is a natural-born citizen of the United States" (Van Dyne, Citizenship of the United States, 1904, p. 50).

In *Roa* v. *Collector of Customs* (23 Philippine Rep. 315, 332, 1912) the court says:

"A natural born American citizen or Spanish subject means an American citizen or Spanish subject who has become such at the moment of his birth."

III. THE MEANING OF THE TERM AT THE TIME OF THE ADOPTION OF THE CONSTITUTION

In ascertaining the meaning of the term "natural-born citizen" as used in the Constitution of the United States it is, of course, important to examine the meaning of that term as used prior to the adoption of the constitution in 1789.

It is well settled that the term "natural born" citizen (or subject) included not only all those born within the territorial limits of England or of the Colonies but likewise all those who were citizens at birth, wherever their birthplaces might be.

Blackstone's Commentaries, 12th edition, 1793, in Volume I, chapter 10, refers to the general rule that "Natural born subjects are such as are born within the dominions of the crown of England . . ." and, after pointing out that there are certain exceptions, he then goes on to state:

". . . To encourage also foreign commerce, it was enacted by statute 25, Edw. III, st. 2, that all children born abroad, provided both their parents were at the time of the birth in allegiance to the king, and the mother had passed the seas by her husband's consent, might inherit as if born in England: and accordingly it has been so adjudged in behalf of merchants. But by several more modern statutes these restrictions are still farther taken off: so that all children, born out of the king's ligeance, whose fathers were natural-born subjects, *are now natural-born subjects themselves*, to all intents and purposes without any exception; unless their said fathers were attainted, or banished beyond sea, for high treason; or were then in the service of a prince at enmity with Great Britain" (373). (Italics supplied.)

The English statutes referred to by Blackstone all are alike in stating that the foreign born children coming within them *are* natural born subjects. See, for example, the Act of 1677, 29 Car. 2, c. 6, which states that the children coming within it "are declared to be and to have been the King's natural born subjects of this kingdom." Similarly, in the last statute passed before the adoption of the constitution dealing with this subject, the Act of 1773, 13 Geo. 3, c. 21, the same phrase, "declared to be natural born subjects of the Crown of Great Britain" is used. These statutes made clear that natural born subjects meant persons who were subjects from birth.

In no case did the statutes read that the foreign born child would be entitled to the same rights as those of a subject born in Britain; what they said was that he *was* a natural born subject i.e. a subject from birth just as was a subject born in Britain.

It follows necessarily from this that at the time of the adoption of the constitution the meaning in Great Britain of the words "natural born" subject was one who was born a subject whether (a) by birth in Great Britain or (b) by birth outside but of parents defined in the applicable statute. This being the meaning of the term in Great Britain it must be presumed to be the meaning intended to be given to it in the constitution.

It is contended by Professor Blum that since foreign born children became subjects as a result of statutory enactment and not by common law, and since British statutes were not adopted in the United States but only the common law, therefore the term "natural born citizen" in the constitution was limited to those who were born in the United States. There is no basis for this conclusion. No question of adoption of the British statutes is involved; they merely are relied upon to establish that the term "natural born citizen (subject)" meant at the time, in Great Britain, anyone who was a citizen (subject) from birth, whether by virtue of birth within the country under common law or by parentage when so provided by statute.

The term when used by the draftsmen of the constitution was surely intended to have the same meaning. That they so intended is confirmed by the fact that the Nationality Act enacted by the First Congress in 1790 contained among other matters the following provision:

"And the children of citizens of the United States that may be born beyond sea, or out of the limits of the United States, shall be considered *as natural born citizens:* Provided, That the right of citizenship shall not descend to persons whose fathers have never been resident in the United States: . . ." (Italics supplied.)

This statute is a convincing contemporary construction of the pharse "natural born citizen" and demonstrates that the term in the constitution was not limited to persons born in the United States.

On January 29, 1795, the Nationality Act of 1790 was substantially rewritten and Congress put into one section a provision concerning two categories, one dealing with children of naturalized citizens, and the other dealing with foreign born children of citizens, reading as follows:

"And be it further enacted, That the children of persons naturalized dwelling within the United States, and being under the age of twenty-one years, at the time of such naturalization; and the children of citizens of the United States, born out of the limits and jurisdiction of the United States, *shall be considered as citizens of the United States:* Provided, that the right of citizenship shall not descend to persons, whose fathers have never resided in the United States." (Italics supplied.)

It should be noted that in the clause italicized the words "natural born" have been omitted. This was rendered necessary because the clause applied to both categories, one of which dealt with children of naturalized citizens who were not citizens at birth and therefore could not be described as natural born citizens. This omission in no way implied that the children in the other category who were citizens at birth were not properly described as natural born citizens as has been done in the 1790 act.

IV. THE CONSTRUCTION GIVEN TO THE TERM "NATURAL BORN CITIZEN" IN THE CONSTITUTION

There is no case involving the eligibility to the office of President under Article II of the constitution.

Nor is there any record of any debate or discussion in the Convention of 1787 bearing on the meaning of the term.

In the first draft of Article II, section 1, clause 5, the word "citizen," was used, which was later changed to "natural born citizen," but no reason for the change is known.

However, Farrand's Records of the Federal Government of 1787, Volume III, at page 61, sets forth a letter written by John Jay to George Washington on July 25, 1787, containing the following:

"Permit me to hint whether it would not be wise and reasonable to provide a strong check to the admission of foreigners into the Administration of our National Government, and to declare expressly that the commander in chief of the American Army shall not be given to, nor devolve on, any but a natural-born citizens."

The contrasting use in this letter of the words "foreigners" and "natural-born citizen" indicates that Jay sought to exclude both aliens and also naturalized citizens who had been aliens prior to becoming citizens, but not citizens who had been such from birth and who never had been aliens. It thus confirms the meaning of natural born citizen herein set forth.

The question was considered by Professor Alexander Porter Morse, one of the foremost legal authorities on American citizenship, in an article written in 1904 in 66 Albany Law Journal, at page 99, which concludes as follows:

"After some consideration of the history of the times, of the relation of the provision to the subject matter and of the acts of Congress relating to citizenship, it seems clear to the undersigned that such persons (children of citizens of the United States born at sea or in foreign territory) are natural born, that is, citizens by origin; and that if otherwise qualified, they are eligible to the office of President."

In this article Professor Morse emphasizes that the Act of 1790: "followed closely the various parliamentary statutes of Great Britain; and its language in this relation indicates that the first Congress entertained and declared the opinion that children of American parentage, wherever born, were within the constitutional designation 'Natural-born citizens.'"

Willoughby, in United States Constitutional Law, volume 1, at page 354, states:

"Natural-born citizens not yet defined. So far as the author knows, no fully satisfactory definition of the term 'natural-born citizen' has yet been given by the Supreme Court. Thus, it is not certain whether a person born abroad of American citizens who have themselves resided in the United States is to be deemed a natural-born citizen or a citizen naturalized by the Act of Congress which provides that such persons shall be deemed to be citizens of the United States. To the author *it would seem reasonable to hold that anyone who is able to claim United States citizenship without prior declaration upon his part of a desire to obtain such a status should be deemed a natural-born citizen.* If this doctrine should be accepted, persons born abroad of parents themselves citizens would not be regarded as natural-born citizens, because, in fact, it is provided by Act of Congress of March 2, 1907 (34 Stat. 1229) that such persons, in order to receive the protection of the United States are required, upon reaching the age of eighteen years to record at an American consulate their intention to become residents and remain citizens of the United States, and, moreover, are required to take the oath of alle-

giance to the United States upon attaining their majority." (Italics supplied.)

The statement in the above quotation as to the 1907 act is incorrect in that the requirements to register at an American Consulate and to take an oath of allegiance, applies only to children "who continue to reside out of the United States" until reaching the age of eighteen. Governor Romney came to the United States at the age of five and consequently it was not necessary for him to register or take an oath of allegiance and a passport was issued to him without his having taken such action.

Furthermore, even if he had continued to reside abroad until eighteen and had failed upon reaching the age of eighteen to register at an American Consulate, it would not have affected his citizenship.

See Rueff v. Brownell, 116 Fed. Supp. 298, at 305:

"It should be noted that even under this section the failure of a citizen to comply with its provisions will deprive him of the right to diplomatic protection but will not deprive him of his citizenship."

Accordingly, under the doctrine laid down by Willoughby in the words italicized above, Governor Romney is a natural born citizen.

Professor Blum in his article argues that "natural born citizen" is synonymous with "native born citizen" and is therefore limited to those who are natives, i.e., born in the United States. No evidence is advanced in support of this contention with the exception of the fact that one of the various meanings given to "natural" in the Oxford Dictionary is "native." However, the answer to this contention is that this dictionary also defines "natural" as "present by nature," and there is no justification in selecting one meaning to the exclusion of the other, and further that as set forth under I above, it defines "natural born" as "having a specified position or character by birth" and hence as including, but not limited to, native born.

V. FOREIGN BORN CHILDREN OF CITIZENS ARE NOT NATURALIZED CITIZENS

There is a dictum in the opinion of Mr. Justice Gray in United States v. Wong Kim Ark (169 U. S. 649, 1898) which is inconsistent with the definition of "natural born citizen" above set forth. It describes foreign born children of citizens as naturalized, as follows:

"A person born out of the jurisdiction of the United States can only become a citizen by being naturalized either by treaty, as in the case of the annexation of foreign territory, or by authority of Congress exercised by declaring certain classes of persons to be citizens, as in the enactments conferring citizenship upon foreign-born children of citizens or . . ." (702).

The actual decision in this case was that a child born in the United States, whose parents were subjects of the Emperor of China, became at the time of his birth a citizen of the United States.

This dictum in the Wong case has led to decisions holding that a foreign born child was a naturalized citizen within the meaning of an expatriation statute (Schaufus v. Attorney General, 45 Fed. Supp. 61, 1962, and Zimmer v. Acheson, 191 Fed. 2d 209, 1951). It has also led to a repetition of the dictum in one case (United States v. Perkins, 17 Fed. Supp. 177). This case held that, when at the date of birth abroad the parents were aliens but afterwards the mother was repatriated, the child was not a citizen at birth but a naturalized citizen, and that a certificate of derivative citizenship should be issued to him. The court then went on to say by way of dictum that even if his mother had been an American at his birth, he would still have been a naturalized citizen.

It is believed that the dictum in the Wong case and the cases based on it is incorrect and that such foreign born citizens are not properly described as "naturalized" citizens and that the term is applicable only to persons who have been previously aliens.

Professor Corwin, in The President, Office and Powers, at page 32, in a carefully reasoned discussion of the question, explains why he does not agree with the dictum:

"But who are 'natural born citizens'? By the so-called jure soli, which comes from the common law, the term is confined to persons born on the soil of a country, and this rule is recognized by the opening clause of the Fourteenth Amendment, which declares to be citizens of the United States, 'all persons born or naturalized within the United States and subject to the jurisdiction thereof.' On the other hand, by the so-called jure sanguinis, which underlay early Germanic law and today prevails on the Continent of Europe, nationality is based on parentage, a principle which was recognized by the first Congress under the Constitution in the following words: "The children of citizens of the United States that may be born beyond sea, or outside the limits of the United States, shall be considered as natural born citizens of the United States; provided that the right of citizenship shall not descend to persons whose fathers have never been resident in the United States [Act of March 26, 1790, 1 Stat. 415] and the general sense of this provision has been continued in force to this day by succeeding legislation, [Act of February 10, 1855, 10 Stat. 604; R.S., sec. 1993; Act of March 2, 1907, 34 Stat. 1229: U.S. Code, Title 8, sec 6.] The question arises, whence did Congress obtain the power to enact such a measure? By the Constitution Congress is authorized to pass 'a uniform rule of naturalization,' that is, a uniform rule whereby *aliens* may be admitted to citizenship; while the provision under discussion purports to recognize a certain category of persons as citizens from and because of *birth*. Probably the provision is to be referred to the fact that Congress is the legislature of a nation which is sovereign at international law, and hence possesses the right of any sovereign nation in determining who shall be members of its body politic and who not. [In United States v. Wong Kim Ark, 169 U.S. 649 (1898), Justice Gray, speaking for the court, indicates quite clearly the opinion that the above legislation was passed under the 'naturalization' clause, and that children born abroad of American parents are therefore *naturalized* citizens; that, in short, to be a natural-born citizen of the United States one has to be born 'within the United States and subject to its jurisdiction.' (Ibid. 674, 702–703.) The point, however, was not involved in the case; nor does Justice Gray explain why Congress in the Act of 1855 'declares' children born abroad of American parents 'to be citizens of the United States.']"

As opposed to the dictum in the Wong case and to the three decisions based upon it, in addition to Professor Corwin and the other authorities cited above defining natural born citizens, there are the following authorities defining naturalized citizens as not including foreign born children of citizens:

Mr. Chief Justice Fuller and Mr. Justice Harlan in their dissenting opinion in the Wong case state "the children of our citizens born abroad were always natural-born citizens from the standpoint of this government" (169 U.S. 649, 714).

Johansen v. Staten Island Shipbuilding Co. (272 N.Y. 140, 1936) involved two claims under the Workmen's Compensation Law, one brought on behalf of the decedent's widow and the other brought on behalf of the decedent's children. The facts surrounding the second claim were as follows: The claimants were children of the decedent and the widow. All of these children were born outside the United States. At the time of their birth their father, the deceased, was a naturalized citizen, and their mother had become a naturalized citizen by marriage. Therefore, the children were born abroad of parents both of whom were United States citizens. Here, the court held the award could not be commuted under the statutory provision for commuting Workmen's Compensation awards to aliens, since the children "were not naturalized citizens, but citizens by birth, though born without the United States."

The Nationality Laws of the United States (76th Cong., 1st Sess., 1938) contains the following two statements:

"Naturalization according to the usual acceptation of the term in the United States undoubtedly means the grant of new nationality to a natural person *after* birth." (Italics in original, p. 3.)

"The term (naturalization) is not ordinarily applied to the conferring of the nationality of a state, jure sanguinis, at birth upon a child born abroad" (p. 3).

An example of the customary use of "naturalization" appears in the Immigration and Nationality Act of 1952, now in effect. Title 8, chapter 12, Subchapter III, contains two parts, Part 1 of which, dealing with "nationality at birth," includes (a) persons born in the United States and also (b) persons born outside of the United States of parents one of whom is a citizen, whereas Part 2 deals with "nationality through naturalization". The predecessor statutes to the Act of 1952 made the same distinction between persons who became citizens at birth and naturalized citizens. See also the quotation from Hackworth, *supra*.

It has been suggested that the Fourteenth Amendment should be construed as though it read that citizenship can be acquired *only* by birth in the United States or by naturalization in the United States. This construction is unsound. If it were correct it would prevent foreign-born children from being citizens at all, since they are neither born nor naturalized *in* the United States. This amendment does not purport to enumerate all methods of acquiring citizenship or to apply to foreign-born children in any way, as Justice Gray points out in his opinion in the Wong case, at page 688:

"This sentence of the Fourteenth Amendment is declaratory of existing rights, and affirmative of existing law, as to each of the qualifications therin expressed—'born in the United States,' 'naturalized in the United States' and 'subject to the jurisdiction thereof'—in short, as to everything relating to the acquisition of citizenship by facts occurring within the limits of the United States. *But it has not touched the acquisition of citizenship by being born abroad of American parents.*" (Italics supplied.)

Thus it is clear that the amendment in no way concerns itself with the status of foreign-born children, and furnishes no support whatsoever for the Wong dictum, which asserts that such children acquired citizenship by naturalization outside of the United States.

It is accordingly believed that the term "naturalized" applies only to aliens and not to those who are automatically citizens from birth, and that therefore foreign-born children of citizens, since they never were aliens and became citizens at birth without any action on their part, cannot properly be termed naturalized, and that the dictum in Wong is wrong.

VI. CONCLUSION

It follows from the preceding that Governor Romney, who was a citizen of the United States from his birth by virtue of his parentage, is a natural-born citizen and therefore is eligible under the constitution to be elected to the office of President of the United States.

Furthermore, it is appropriate to call attention to the following quotation from Professor Corwin, in his The President, Office and Powers, at page 33, which in referring

to the fourteen years' residence, is dealing with another requirement in the constitution for eligibility to the office of President:

"At any rate, should the American people ever choose for President a person born abroad of American parents, it is highly improbable that any other constitutional agency would venture to challenge their decision—a belief which is supported by the fact that Mr. Hoover's title to the Presidency was not so challenged, although he had not been fourteen years a resident of the United States immediately preceding his assumption of office."

BAIL REFORM ACT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to insert in the RECORD an editorial which appeared in yesterday's Washington Post entitled "Bail System in Trouble."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

BAIL SYSTEM IN TROUBLE

It is not surprising that the new bail system should be operating imperfectly. The practice of releasing accused persons on their own pledges to be present when their trials are called is new to judges, defendants and the Bail Agency alike. Time will be required to develop smooth working relationships.

Much more than time will also be required. The bondsmen who have largely been put out of business did render a useful service, however unfair their exploitation of the poor defendants may have been. They hustled their clients into court on the day of their trial. Under the Bail Reform Act no one performs this service with comparable effectiveness. Chief Judge Bazelon of the Court of Appeals has noted complaints that released persons are not properly notified when and where to appear in court and that penalties for failure to appear are not being consistently applied.

One reason is, of course, that the Bail Agency has not been granted the personnel and resources it needs to do its job. Background data about a defendant appealing for release without monetary bail is often lacking. As a result some are apparently released inadvisably and others complain that they are detained in jail without good reason. If this system is to operate successfully, it must have the support of a strong fact-finding and supervisory organization behind it.

One other difficulty appears to be that some judges are not sufficiently familiar with what they can do under the Bail Reform Act. Actually it leaves the judge a substantial number of choices—release of a defendant on his own recognizance, requirement of monetary bail if deemed necessary for the defendant's appearance for trial; release under a variety of conditions; part-time release, and so forth. But here again a strong and vigorous agency for administration of the Act is called for.

In the circumstances the District's judicial Council has wisely named a committee to study the problem and bring in recommendations. In our view the theory behind the Act is sound, but in practice many improvements are in order. The committee will have a heavy task to work out practical measures that will prevent the jailing of accused persons because of their poverty and at the same time avoid further delay of trials, the freeing of dangerous defendants and the defeat of justice.

SECRETARY OF DEFENSE McNAMARA

Mr. McGEE. Mr. President, I desire to add my voice to the chorus of those who are praising Secretary of Defense Robert McNamara and bemoaning his decision to leave the Government soon. In other places and at other times I have spelled out my very deep respect for and admiration of this most distinguished public servant. I have always preferred to view him as the philosopher-statesman rather than as the Secretary of Defense.

This is not to detract from his brilliant role in directing the Pentagon; but, rather, is another way of saying that, powerful and terrifying and frustrating as the job of Secretary of Defense has to be in these critical times, Robert McNamara was a much bigger man even than this job he filled so ably. He understood human values and the complexities of the human race. And he placed these things above the pedestrian demands of material decisions from day to day.

In another sense, he had that inner grasp of not only the meaning but also the importance of our country's constitutional infrastructure which requires civilian control of military policies and activities. No Secretary of Defense in our history has ever been more brilliantly in command of all of the factors present in the Department of Defense than has Mr. McNamara. I would not hesitate to say that he will rank in history as the greatest in a galaxy of outstanding men who have sought to direct the military activities of our country.

Having said these things, however, I cannot resist a passing comment on some of those who are now according Secretary McNamara unequivocal accolades of support and tribute. Voices have been raised on the floor of the U.S. Senate over the past 7 years as well as voices in the fourth estate who were anything but laudatory or even respectful of the high office of Secretary of Defense. Many of these very same voices are now paying tribute to this distinguished American. Some of them are now seeking to identify with his views. They pretend to see in his wisdom a reflection of their own.

But, Mr. President, assertions of this type or oratorical gymnastics of this dimension are still a marvel for me to behold. I say that with deep, personal feeling because some of these same sources regularly have not only assaulted the Secretary, they have demeaned his role, they have called into question his motives, they have doubted his judgment, and at times they have even appeared to impugn his integrity. For these critics now to rise as one voice to express regret over his pending resignation is understandably hard to rationalize.

Bob McNamara has not changed. From the very beginning he has had a grasp of what the American position in eastern Asia is all about. He has had an understanding of the forces of history which compel our presence there. He has had a sense of restraint and yet of determination to see it through. All of these attributes of the Secretary were lost upon his critics for 7 years.

Either they could not see the big picture which he carefully sketched for them, or they did not want to see it. They repeatedly "tuned him out" or "turned him off." Therefore, the present inclination of the anti-McNamara groups now to identify with him may offer some hope. It may indicate that they have at last seen the light—even at this late date—as they compete with each other to embrace his wisdom.

Some of them demean him further by suggesting that he has changed over to their views. It rather seems to me that the reverse may be true. The critics who now applaud the Secretary of Defense put me in mind of Mark Twain's old story about his father, when Twain said:

When I was 14, I was disgusted with how ignorant my father was. But by the time I had reached the age of 21, I was amazed at how much the old man had learned.

There have been a lot of 14-year-old critics of Secretary McNamara who now, after 7 years, have acquired a greater sense of the Secretary's perspective. If only one could believe that some of the more vociferous of the critics have indeed seen the McNamara light, there would be some reason to rejoice in this present moment. I fervently hope that this is the case.

Robert McNamara from the very first has had a strong—even powerful—grasp of the dimensions of our country's role in these times. Hopefully, now we can close ranks and mobilize behind his wisdom and foresight.

FHA TALKS TOUGH ON DISCRIMINATION

Mr. PROXMIRE. Mr. President, Mr. Philip J. Maloney, the Deputy Assistant Secretary of FHA, recently delivered a strong speech to FHA officials concerning racial discrimination. Mr. Maloney makes it quite clear that, so far as the top echelon in FHA is concerned, racial discrimination in FHA programs will not be tolerated. In talking to the FHA field officials, Mr. Maloney bluntly warned that, if an FHA official cannot abide by the nondiscrimination policies of the FHA, he should "in good conscience step aside for men who can provide leadership in these areas."

Mr. President, the FHA has come a long way from 1950, when its official manuals required racial segregation as a condition for Federal aid. For example, the official FHA manuals once cautioned against "infiltration of inharmonious racial and national groups" or "a lower class of inhabitants" or the "presence of incompatible racial elements." A neighborhood was to be considered as less stable and therefore ineligible for FHA insurance if it contained "a lower level of society." Zoning restrictions and racial convenants were openly advocated by the FHA. In fact, FHA even prepared the form for the restrictive convenant and left blank spaces to be filled in according to the particular prejudice or whims of the builder.

Mr. Maloney's forthright speech stands in marked contrast to this early, but hopefully long-discredited, policy of FHA.

I commend and congratulate the top management of FHA for the leadership they have brought in this area. I recognize that it is a difficult task to change ingrained prejudices and procedures which have grown up over time, but it is encouraging to see that the effort is being made.

Mr. President, I ask unanimous consent that Mr. Maloney's remarks and an editorial concerning FHA's anti-discrimination campaign, published in the New York Times, be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

REMARKS OF PHILIP J. MALONEY, DEPUTY ASSISTANT SECRETARY-DEPUTY FHA COMMISSIONER, TO THE WASHINGTON CONFERENCE OF FHA DIRECTORS AND CHIEF UNDERWRITERS, OCTOBER 25, 1967

We meet again. Before I even begin my talk, I want to take up a special interest of mine that is related to my subject of this morning—sex. It must have been brought home to you this week that there sits among you one—only one—woman who has reached the underwriting top in FHA.

In our concern for equal opportunity, we sometimes tend to limit ourselves to racial considerations. It is equally important that there be equal opportunity for women to enter and rise in our technical positions in the field offices, as well as here in Washington.

It should not be a great chore to bring more women into the underwriting profession. There is no reason in the world that women should not be well represented in the mortgage credit positions in FHA. Women abound in such positions in the savings and loan associations. They sit on loan committees, with equal authority to that of their male counterparts. And there are women in highly prominent architectural positions around the country. I ask you to make special efforts to induce women to enter careers within FHA. I think our underwriting will be all the better for it, and it will take some of the lonely load from Mrs. Brown's shoulders. So—seriously—I want you to take positive actions in this area of sex.

Today I want to talk to you further about equal opportunity in housing and employment in the Federal Housing Administration. Don't groan—don't think that I'm going to simply repeat old lines about the Executive Order and that all housing insured since November 2, 1962, must be equally available without regard to race, creed, color, or national origin. I'll be saying these things, but you can say them as well as I can. You've said them and read them many times. But I'm going to talk cold turkey about them and about our performance in making these policies realities. And about our failures in making these realities.

I happen to be the HUD Deputy Equal Employment Opportunity Officer for FHA, as well as the HUD Deputy Contract Compliance Officer. In addition, I oversee the processing of every complaint of discrimination in housing. You won't see my name or title in the official processing procedures for these complaints, but I want you to know that every move made in the processing of these complaints comes before me—and when necessary, before the Assistant Secretary. What we have seen I'll come to a bit later.

Now I've mentioned a couple of my special titles in assuring equal opportunity, but I don't hold these titles in particularly high regard. In fact, I would as soon see them abandoned. I think that they tend to separate matters of equality in housing and employment from our day-to-day work. This shouldn't be, and I do not really separate these special responsibilities from the exercise of my full responsibility as Deputy Assistant Secretary. And neither does Assistant Secretary Brownstein. Those of you who have badly exercised your duties and responsibilities in equal housing and employment, and have heard from us, well realize that we do not separate our concern for equal opportunity from our other concerns over the operations of the agency. We can manifest our displeasure—and sometimes pleasure—under any title whatever.

The point is that FHA is unequivocally committed to equality in housing and employment. This is not a sometime commitment. Like our commitments for mortgage insurance, it's a permanent, irrevocable commitment. Today, tomorrow, and forever. And I want you to know it, and to get with it, and stay with it. Today, tomorrow, and forever. I would be less than frank if I told you that I thought you had really done what you could have done in these areas up to the present time. I think it is fair to say that you have been measured and been found wanting. Well, now I want you to measure up—to manifest your loyalty and zeal for these causes. If you can't give this much to your positions of leadership in the Department, I suggest that, in good conscience, you should step aside for men who can provide leadership in these areas.

Assistant Secretary Brownstein told you emphatically where the prime thrust of FHA must be—in housing for families of low income and in the restoration of the inner cities. The realization of these goals is as of right now the mission of the agency. It's nothing new for us to take on special challenges, and you're looking at fool's gold if you continue to look back and take pride in the FHA accomplishments of the past. Moreover, there's a bit of hypocrisy in such rear-view mirroring. Most of us weren't around to have been the leaders of yesteryear. Those who went before us were those leaders. They met the challenges of their day, and their glory is not ours. We have to meet the tests of our own time, and the tests are different. If we are to join in the continuing fine history of FHA and join with the leaders of the past, we have to realize that the time of our testing is now. And I think that you all realize that the tests are hard. But so were the earlier tests of those who led before us. I would hate to say that we cannot measure up to the demands of our time, as they did to those of theirs. And, if we can't, with the wealth of tradition and experience which we have inherited, adapt ourselves to meet our challenges, then we might as well call it quits now. Assistant Secretary Brownstein was in dead earnest when he said that these are critical times for FHA. We either produce, as we have before, or we are an agency with little future. And if that should come to pass, you and I will have betrayed our inheritance.

Don't think that I have strayed from my theme of equality. It's right here. With our primary mission of housing for families of low income and the restoration of the inner cities, we stand face-to-face, eyeball-to-eyeball with the spectre of discrimination, the ghoul of a lack of basic freedom in housing and employment. These are the shame of our cities, the shame of our nation. And there is no way to separate these problems of discrimination from the mission that we have been given by Mr. Brownstein. They are inextricably joined. If you try to separate them, you are doomed to failure from the start. You can't be a leader in the solution of the real problems of the city, if you are incapable of seeing that jobs and housing are roots of these problems. And if you can't take a total look at the problems of the cities—including all the ghastly realities of the slums, the inhuman conditions in which so many city dwellers live—then you cannot measure up to the leadership which we are demanding of you today. You cannot sit at your desks to exercise this leadership, driving home on freeways, through parks and well-established, well-maintained neighborhoods. You may live in these fine areas, but your mission is far from them. You belong in the slums, meeting with minority groups, groups of the poor, groups of those who can sponsor housing projects for the poor and for those in the inner city. You must plow through the dirty streets, the garbage, the rat-infested houses and apartment buildings. This is where we want you to be. This is where the problems are, where the work is to be done. This is where we want FHA financing to be today.

As Assistant Secretary Brownstein told you, get out and find sponsors and builders for housing for low-income families and in the inner cities. Don't sit at your desks and wait for proposals to come to you. Go get them. Put them together, cooperating with every group possible. Get to know intimately all of the state and local officials who can help you in this mission, as well as all of the officials of fair housing and minority groups who can help you. But realize that you are supposed to be leaders. You are the highest decentralized HUD officials. You have been given great authority, but I wonder whether you realize how much. And I wonder whether you exercise it as we want you to. You have the authority to commit the Secretary and the Assistant Secretary-Commissioner to insure mortgages. You determine whether these are worthy transactions and ultimately make the decision. And your decisions are binding on the Secretary. You have this authority. We want you to use it positively, not passively.

Be a leader. Use your authority in an urban renewal area, for example. The local renewal authority should be in close consultation with you from the very beginning. And you should be thinking deeply and imaginatively on the area problems from the beginning. Any housing proposals fall in your jurisdiction. When you see an area that can be redeveloped for family living, you should say so. Many of our central city areas now up for renewal were residential areas once. There may be good reason for redeveloping them as residential areas again. And I don't mean as luxury high-rise projects. But here you are the force that should mold this decision. Many a city renewal agency will block out these former inner-city areas for luxury apartments. But you don't have to agree. It's your ultimate decision on what FHA is going to insure in these areas. You have the authority to say "yes" or "no" to these plans. And stop to realize that what you say may well determine these matters, in many instances. The Secretary has clearly stated that in urban renewal areas we will give primary consideration to providing renewal housing to families of low income, many of whom will be from minority groups.

But, if you are to be the leader that I am talking about, you have to act big. You are big in authority, if you stop to realize it. But you have to use all the authority that we have vested in you. Throughout your jurisdiction, not only in your insuring office city, you must make your presence and authority felt. Meet as equals sharing a problem with any and all local or state officials, with any groups, or individuals that can help us in the accomplishment of our mission. Act to meet this mission. Don't wait to react after someone else has made a proposal to you. Guide the development of the proposal.

We want FHA to be an imaginative, driving, thrusting force throughout this country. And you have to be the drivers. You must develop within yourselves a sense of urgency and transmit it to every member of your staff. You must reexamine your working habits to free yourself from every non-essential chore so that you can dedicate your talent and time to the active promotion of the mission that Assistant Secretary Brownstein has laid out.

On equal opportunity matters, I hope that you don't think that I have no grounds for my sense of urgency. I have. And I'm going to speak frankly on these matters.

As you know, we have just completed a survey of all builders operating in subdivisions covered by the Executive Order on Equal Opportunity in Housing of November 20, 1962. We asked you to get these builders to state or estimate the number of minority-group buyers they had in these subdivisions.

The results have now been tabulated. The survey showed that 665,578 lots had been developed under coverage of the Order. And 410,574 units had been sold. I suspect that these numbers—both of them—are very much under the actual numbers. They should be considerably higher, according to our usual estimates. Slightly over 35,000 of these units were reportedly sold to members of minority groups—the Negroes, the American Indians, the Orientals, and the Spanish Americans. Reportedly 13,832 units were sold to Negroes, 12,765 to Spanish Americans, 8,784 to Orientals, and 687 to American Indians. We have, therefore, according to this survey, provided housing for families from most minority groups at the rate of somewhat over 8% of the housing units developed and sold under coverage of the Order.

Since we just have completed the tabulation of this survey, we have not had it analyzed and placed in proper relation to income levels, market demand, and so forth. This is now beginning in the Research and Statistics Division. When this work is complete, we will have a much more sophisticated measure of what has been accomplished so far.

But even from the rough tabulations that we now have, I think I can safely make certain deductions. We have not done well enough in providing housing for minority families. The conclusion is inescapable when you look at the record of a number of large urban centers and see that virtually no minority family housing has been provided through FHA. And these are urban centers with large concentrations of minority citizens. I am not going to identify these urban areas, but you saw the results before you sent them to Washington. You know where your area stands, how poorly it stands. And then we must consider that some of this minority-family housing, probably a great deal of it, is in developments that are largely or wholly occupied by minority families.

I realize, as you do, that we are here dealing in an area that is shot through with social customs and prejudices. Pressures strongly resistant to change make progress exceedingly difficult. Progress can only be made to the degree that social attitudes can be changed. And this isn't easy. The goal is, of course, to change these attitudes so that minority families are socially free to seek the housing they can afford and desire anywhere. We are far from this goal, obviously, but I think some notable progress has been made in many parts of the country. The walls haven't come tumbling down yet, but they are being breeched in many places.

What will ultimately bring them down is positive efforts to enable the minority to choose freely any housing they can handle in any developments financed through FHA. When minority families can freely choose among any number of developments, and not be restricted to developments that will ultimately be largely occupied by minorities, then I think we will be able to say that some real progress has been made.

So that we may be able to achieve this real rate of progress, you are going to have to be hard and sharp—as wise as the serpent. You're dealing in a field in which others are hard, sharp, and competitive. If building and real estate operators believe that you are complacent, busy about many other things, or less than zealous in this cause, they will in the vast majority of instances take the easy course—business as usual, within the safety of the social customs or prejudices of the area. And you must realize this fact. Human factors are strong here. Try to remember the statement of Thomas More, the great Chancellor under King Henry VIII:

"It is not possible for all things to be well unless all men are good—which I think will not be thus for a good many years."

The time of total goodness hasn't arrived. But if the builders and sellers recognize that your eye is on them constantly, that you are just as sharp as they are in the intricacies of building and real estate operations, they are going to be more careful to operate in the spirit of the Order. If they know that you know all of the ins and outs of mortgage financing, construction schedules, market potentialities, and urban growth, they will recognize you as a formidable opponent if their operations force that role on you.

But let's hope that such a role is not forced on you. Let's hope that you have—or can attain—such stature in the industries with which you deal that you can work cooperatively with all to make progress toward equal opportunity in housing.

I want to mention our formal complaint procedures. But first I want to make sure you clearly understand that such procedures actually do exist. They do, and they have existed since shortly after the issuance of the Order. They are one of the last sections of Volume V of the *Manual*. I find it necessary to make this point because we have had several recent instances where directors faced with a complaint of violations of the Order proceeded to attempt to resolve the complaint in their own fashion. In several cases, the directors had already made their findings in the complaint cases, when Washington learned of the matter and had the case reopened and properly processed. Don't let this happen to you. It's embarrassing all around and causes delays and undue resentment from all parties involved in the case. And the processing lacks the uniformity we desire in the application of the Order.

I most emphatically do not want anyone in the agency to feel that the formal complaint procedure is a significant tool to achieve the objectives of the Order. It is a procedure to assure the rights of a particular homebuyer in a particular deal. If the complaint proves justified, of course, the future operations of the builder or seller should—if still permitted the benefits of FHA financing—be under special surveillance. This doesn't get us very far very fast. But we still must be extremely careful in the processing of these complaints. Since the issuance of the Order, we have had only 136 complaints. This shows clearly that we should not look for great accomplishments through the complaint process, even if we had a substantial increase in volume. We have, by the way, new and we think, improved, complaint processing procedures virtually ready for replacement of the present procedures.

In my review of the complaints we have had, I have noticed a tendency to misunderstand the builder's position in FHA's eyes in some instances. You must remember that the builder certified to FHA that he would conduct his operations in conformity with the provisions of the Order before he got underway. Then, when a complaint is made that he has discriminated, and the director has determined that this complaint of discrimination is justified, the builder is requested to sell the desired home to the complainant. We've achieved our first objective—to get the complainant a house if his complaint is valid. But we're not finished with the builder in these cases. He certified that he would not discriminate in his operations. We determined that he had violated his certification. The fact that he sells a house to the complainant when we bring him to book does not let him return to business as usual, with another certification that he'll now abide by the Order. His certification is too suspect for our future reliance on it. He has now to demonstrate to us through some positive actions that he will, in fact, be offering his houses equally to all. What we will accept as a satisfactory positive action program will depend on the particulars of the case. For this reason, it is vitally important that you directors keep in close contact with Washington as you process these complaint cases, particularly as you reach the point of resolving the complaint, but before you make your determination known, or lay down any sanctions. It is here that we want you to have our advice and concurrence to achieve uniformity in the enforcement of the Order. We will give you advice based on our knowledge of previous complaint cases and their resolution, as well as any legal guidance you may need.

I think you will notice that we have gradually toughened our attitude toward builders who have been found to be in violation of their certification of compliance with the Order. We will continue this attitude toward these builders or sellers who refuse to honor their certifications to us. If builders decide to leave our programs on this account, then so be it. When the builder comes into our programs, the decision not to discriminate has been made—he has no choice later to decide honorably which way to go.

We are in the process of issuing jointly with the Veterans Administration letters to all builders, mortgage lenders, and management brokers calling to their attention their responsibilities for equal opportunity in housing if they wish to continue to avail themselves of the benefits of our programs. Over 150,000 of these letters will be issued through the insuring offices to builders and management brokers and through the Washington office to all approved mortgage lenders. The letters are on the presses now and will be distributed promptly. You will see them today.

But again, I do not want to make more of the potential of the complaint procedure than is justified. Its effectiveness is sharply limited and local in nature. But I do want complaints properly handled.

If FHA can get stably integrated neighborhoods established around the country, then we will have achieved something in providing equality in housing opportunity. Every example of such stable integration is worth infinitely more than all of our successful complaint actions together. In fact, the two actions are not even comparable as to the worth to us and to the nation. Successfully integrated neighborhoods should be contagious. And as these examples spread, we are ever nearer to breaking the racially restrictive bonds on our inner-city areas that lead to progressive deterioration of these areas where poverty, overcrowding, and substandard housing feed the forces of despair and discontent. We cannot effectively relieve the pressures in these areas and restore them unless all other neighborhoods of the metropolitan area are freely open to all who can and want to live in them.

I would like now to turn to another aspect of equal opportunity—FHA employment. Here again I find that progress has been generally slow and that we must improve our record. We have a few new means which we hope will be helpful in this area, but before mentioning them, I would like to review the record.

At the end of September, FHA had 7,938 employees. Of these, 909 were Negro empolyees. So throughout the agency, Negroes comprised 11.5% of the total employment. This Negro employment level has been moving up slowly. So the direction is right, but the rate is too slow.

At the end of September, the FHA Washington employment ratio for Negroes stood at 30.4% of total employment. For the field, the ratio for Negroes was 5.3%. Both areas showed gains, but they were too small. And, of course, many of our Negro employees are concentrated in the lower level, non-professional areas of employment. There has also been progress in the reduction of offices and divisions in FHA without Negro employees. Some remain, however, and some of the progress has been made only under pressure from my office. This should not be necessary. The need for the talents of Negro employees in

all offices in FHA—and I do not mean what is called "tokenism" in any way—should remain uppermost in your minds at all times when taking personnel actions.

I know that at some times and in some places, it is hard to locate qualified Negro employment candidates. Particularly for our technical and professional positions. But it is not impossible, and it is very possible when we all make continuing positive efforts at recruitment. This takes leadership, particularly in the field, where much of your personnel is in the technical fields, and recruitment is difficult regardless of racial factors. But if you exercise your leadership in making and keeping contacts with schools and organizations, much can be done to improve our present position. You must be sure that these are not one-time, sporadic contacts. They must be sincere and continuing. With such careful cultivation, there should be some fruit. Don't expect a bountiful harvest. But be sure to do all that you can to take the first and best fruits. If you should locate candidates that are promising for employment by FHA—and you don't have openings for them—think of the agency and HUD as a whole. Let my office know of these candidates, or notify the Director of Personnel. If you can't consider them, other insuring offices may need them badly, or so might the Washington office.

FHA will continue its special annual recruitment drive in the colleges for minority graduates. And, we have established a new position to guide special recruitment efforts in the personnel division. We hope these actions will prove helpful.

I had hoped to be able to announce an imminent new program under which we would begin to train candidates for our own technical positions, starting with candidates far below those we take into our regular technical training schools in the various branches of underwriting.. We plan—although we may have to defer this plan—to locate promising candidates who may not qualify for our regular intern or trainee positions in a number of insuring offices. If these show promise for special training positions, we plan to take them into the FHA service at the GS–2 and GS–3 levels and educate them ourselves. We will have positive support from a contract educational institution for the development of the non-FHA educational materials and for professional teaching guidance. The training in FHA technical fields will be done by insuring office personnel. The training will be in mortgage credit, property management, appraisal, architectural, Title I servicing, and other areas. Those of the promising students who pass the pre-trainee level work will enter into the newly revived position of Housing Aide, GS–4—this is a position similar to the old underwriting aide position. Successful completion of the training in this position will entitle the student to enter into one of our official training schools or to undertake similar training in an insuring office leading into our regular technical positions.

The program is developed, and we are ready to contract with an educational institution for the professional guidance we need. The test offices have been tentatively identified to start the program. But there the good news ends. We developed this test program because we know of the difficulty of finding candidates for employment with training in the specialized fields that we need, particularly in the insuring offices. We have been two years in developing the program and in negotiating with the Civil Service Commission. Now that we are ready to proceed with our program—one we think will work—we suddenly face the battle of the budget. I know you have all followed the recent congressional actions aimed at limiting our budgets, and the actions taken to continue our spending at last year's level, pending final action on this year's budget, as well as the action taken to require executive agencies to absorb the entire cost of the employee pay raise in their existing budgets. These are serious complications. How they will be ultimately decided by the Congress I cannot tell. And until we know the outcome, we are not in a position to say whether we can undertake this new employee-training program as we had originally planned it. We called it *Fair Chance*, and we are committed to it. And it will be undertaken as soon as possible. But if we are faced with severe budget cuts, on top of a current staffing shortage, we may have to postpone the test period of *Fair Chance*. Or, if the cuts are not too severe, we may be able to start the *Fair Chance* program on a very limited basis using a few of our own present promising employees—a sort of pre-test program. But if there are no severe cuts in the budget, we should be able to proceed with *Fair Chance* within a matter of months.

We are also implementing an affirmative action and goals program in both Washington and in the field. Under this program each major division in Washington and each insuring office will set its own goals for equal opportunity in employment and its own deadlines for reaching these goals, under general guidelines set out for the entire agency. This program is already underway in Washington, but bugs have developed. And the de-bugging process is in process at the moment. It does, however, show definite promise, and full-scale implemented gradually throughout the agency, so that programs, goals, and accomplishments will be staggered, since all of these areas of the program will need intensive review and analysis by a very limited section of the Personnel Division if the program is to succeed.

But regardless of these special program developments that we hope to implement as rapidly as possible, there are several things that you can do to assure the best possible program of equal opportunity in employment in FHA.

First, and it shouldn't have to be noted, watch the personnel actions closely in your own office. Before any hiring action or promotional action can be made, be sure that you have explored it thoroughly. And be sure when you are exploring it that you are not placing undue reliance on the recommendations and opinions of your subordinates. In most cases, you should be able to have a pretty good estimate of the performance and capabilities of most of your employees throughout the insuring office. You will, of course, have to rely to a degree on recommendations of immediate and secondary supervisors. But you have the responsibility of knowing whether these recommendations are reliable. If you don't accept this on-going responsibility for knowing or questioning the validity of any proposed action, you won't be truly in charge of your office. And you will find yourself in the position of being held responsible for actions that may impair your best operation.

Also, if you fail to watch this matter closely, you may find yourself faced with charges of discrimination in employment. People are not loath to make these charges these days. We've had a number of such complaints. The consequences are not good for the office, regardless of the outcome of the investigation and determination of the complaint. The procedures are lengthy and cumbersome. They do nothing to improve morale in an office. From my experience in processing the complaints that we have had, I think that most could have been avoided. In one after another, it is clear to see that the complaining employee didn't know what was going on, didn't understand our employee promotional policy, or was completely or inadequately informed of the quality of his work performance. In such circumstances, personnel actions—mostly promotions or reassignments—look very arbitrary—perhaps discriminatory. And then come the complaints, most of which result from the bad administrative practices I have mentioned.

This needs the constant and continuing attention of you directors, as well as that of your top insuring office supervisors. I urge you most strongly to see that your employees are completely informed of their promotional opportunities, their deficiencies—told to them in person, with a written confirmation of this conference. Keep your own office open to hear any grievances that may be felt, and be sure that they are checked out for accuracy. Make totally clear the need for and the effect of any planned reorganizations in the office. In other words, be sure that your employees are fully informed on any actions that may affect them. In this way you will keep to the minimum any rumors and unexplained actions that may well play hob with your entire office and give rise to thoughts of discriminatory employment policies. I cannot overestimate the benefits you will reap from careful attention to these matters. I am, of course, emphasizing equal opportunity in employment, but the same careful and thoughful attention to employee relations practices generally will greatly improve your entire office operations through good employee morale.

Yours is the responsibility to support the agency policy in the field. You must take every possible act to assure complete equality in housing and employment.

At times, you may well think that the goals and missions that have been given to you in this conference are unattainable—far beyond your reach. You may feel that like King Arthur and his Knights of Camelot you have been sent to seek but never find the Holy Grail. And there are many who will tell you where to find it. They will see it clearly and tell you loudly where it is. But they are incapable of telling you the way to it. There will be many of these visionaries who share our goals of equality in opportunity, of housing for families of low income, and of peaceful restored and rebuilt inner cities. But it is you who, while sharing these goals, must make the way to them. You will be criticized, and damned on all sides. It may sometimes seem that you are surrounded and your way is totally blocked. At those moments, I hope that you will remember the poet Robert Frost, who said:

"The best way out is always *through*."

With this thought in mind, I think we'll make it.

[From the New York Times, Nov. 21, 1967]

FHA ASKS AIDES TO GET HOUSING FOR MINORITIES—WARNS THAT GREATER EFFORT IS NEEDED—SAYS NEGROES LAG UNDER U.S. PROGRAM

(By Robert B. Semple)

WASHINGTON, November 20.—The Federal Housing Administration, appalled by a confidential new survey of Negro occupancy of federally insured housing, has told its local employes in 76 cities that they must make a greater effort to provide housing for minority groups in the white suburbs or risk unpleasant consequences.

One possible consequence, it has been hinted, would be the loss of their jobs to men with greater "loyalty and zeal" for the principle of open housing. Another would be the gradual decline of the housing agency itself as an instrument of social change.

These warnings were contained in a speech delivered here last month by a high F.H.A. official to a conference of the agency's underwriters and district directors.

The speech, which has not been released by the F.H.A. or its parent agency, the Department of Housing and Urban Development, is now beginning to circulate in civil rights circles. These circles regard it as one

of the most forceful speeches on open housing ever delivered by a Federal official.

PRODUCE OR "STEP ASIDE"

In blunt language, the official, Deputy Assistant Secretary Philip J. Maloney, told his audience that "you have been measured and found wanting." Urging them to "measure up," to "manifest your loyalty and zeal for these causes," Mr. Maloney added this warning:

"If you can't give this much to your positions of leadership in the department, I suggest that, in good conscience, you should step aside for men who can provide leadership in these areas."

He also warned that his agency should either take a more vigorous role in providing housing opportunities for Negroes or "call it quits."

"These are critical times for F.H.A.," he declared. "We either produce, as we have before, or we are an agency with little future."

The Housing Agency has been the target of rising criticism from private groups, and from Congress for its alleged failure to carry out the Executive Order of 1962. The order forbids discrimination in federally insured housing and gives the Government various forms of leverage over developers who exclude Negroes. This includes the power to withdraw Federal mortgage insurance.

THE VITAL DECISIONS

Although officials at the Washington level have professed their commitment to the Executive order many times, the real power to carry out that order lies with officials in the housing administration's 76 local insuring offices—that is, the men to whom Mr. Maloney was addressing himself.

Although subject to check from Washington, the local underwriters usually determine who receives F.H.A. insurance. Their vigor—or inertia—also determines the success or failure of any civil rights enforcement program.

Mr. Maloney told the underwriters that their record since 1962 had been unimpressive. He said that a recent survey of all new subdivisions insured by the agency and constructed since the executive order showed that of 410,574 houses sold, only 35,000 had gone to minorities.

Of these, only 13,832—or about three per cent of the total—went to Negroes, 12,765 to Spanish-Americans, 8,784 to Orientals, and 687 to American Indians.

Negroes make up about 11 per cent of the total population. Mr. Maloney said that in some metropolitan areas where Negroes make up an even larger percentage of the population "virtually no minority family housing has been provided through F.H.A."

Mr. Maloney's speech complemented an address given only two days before by the head of the housing agency, Philip N. Brownstein. Mr. Brownstein told the same group that their excessive caution in the past, reflected by a reluctance to insure housing in slum areas, had hurt the agency's image and had thwarted its mission of "restoration of the inner cities."

VOLUNTARY CIVIC PROJECTS

Mr. HART. Mr. President, two projects which are being voluntarily conducted in Grand Rapids, Mich., could have a marked effect on inner city-police relationships, big city rioting, proper and just court procedure, and emergency lifesaving.

To my knowledge, they are "trailblazers," as the Grand Rapids Press reported. With all of the millions of words that have been pumped about in an effort to strengthen community police forces, these two ideas, conceived by private, concerned individuals, are simple to carry out and can produce immediate results.

The first involves 60 members of the Grand Rapids Bar Association. They decided to help to resolve the controversy: How can we protect civil liberties and at the same time unhandcuff the policeman who is trying to do his job—stop the lawbreaking citizen.

Solution: Give the policeman a basic understanding of the law. He cannot operate well if he does not know what he can or cannot do.

Some 60 young attorneys are now donating their time to teach police recruits, veterans, and sheriff deputies in six specific areas where their job necessitates public contact—arrest, search and seizure, legal evidence, testifying in court, constitutional law, and the interpretation of traffic ordinances.

The other project involves a team of doctors who felt that at times there was unnecessary tragedy or greater injury in the case of the "emergency patient."

Doctors would often criticize the methods used by policemen or firemen in emergencies, Dr. Mark Vasu of the Kent County Medical Society explained.

Since the policeman or the fireman was almost always the first to arrive in an emergency situation, it became obvious that with a little medical advice they could do much to help save the life or lessen the injury to the person involved.

Ten Grand Rapids physicians and surgeons are now training the policemen, firemen, and deputies in proper emergency procedures and techniques. Their time is also a donation to the community.

When I learned of these two projects, I wanted to bring them to the attention of Senators so that they would be able to carry these ideas back to their own communities.

No one can quarrel with any effort to save a life.

And certainly those of us who are concerned about the problems of our inner city will be in full support of a measure designed to bring about better police-community relations. I have admiration and respect for those persons who are participating in these endeavors and hope that their fine example will be imitated across the Nation.

I ask unanimous consent that an editorial published in the Grand Rapids Press be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

HELP WHERE IT COUNTS

What is being done in this community on a voluntary basis by our doctors and lawyers represents solid progress toward more effective, more efficient and more responsive service by our policemen, firemen and our sheriff's deputies?

Sixty members of the Grand Rapids Bar Association, most of them young attorneys, are donating their time to instruct police recruits and veterans on the force in six specific areas in which the police are involved with the public—arrest, search and seizure, legal evidence, testifying in court, constitutional law and interpretation of traffic ordinances.

"The most meaningful byproduct of this effort," says Paul O. Strawhecker, who helped organize the Bar Association project, "is that it helps to put attorneys on the same side with the police. It establishes better communication through better understanding on both sides, our policemen gaining a better understanding of the law and the role of the attorney and the participating attorneys gaining a better understanding of the difficulties of the policeman's job."

Strawhecker's assessment of the benefits are enthusiastically endorsed by Police Supt. William A. Johnson, who says, "Thanks to the better understanding of the law developed by this program, our police recruits and in-service police officers are becoming even better qualified to give this community better police service."

The project, of which City Attorney Stephen L. Dykema and Prosecutor James Miller are cochairmen, has had the able assistance of H. Raymond Kalliel, Michael F. Kelly, Frank S. Spies, Sherwin J. Venema and Leo J. Stevens.

The first attorney-trained class of police recruits graduates in December. The project has been so succesful that plans already are under way to provide similar instruction-by-attorneys for future classes of recruits.

Of equal significance in helping to provide Grand Rapids with more effective service from policemen, firemen and deputies is a training program sponsored by the Kent County Medical Society and conducted by Dr. Mark Vasu.

Working with recruits and in-service veterans who are interested, Dr. Vasu's team of 10 physicians and surgeons trains policemen, firemen and deputies in proper emergency procedures and techniques.

The medical project had its origin, explains Dr. Vasu, in the doctors' criticism of procedures used by policemen and firemen in emergencies. "It finally," he says, "became a matter of 'Why criticize? Why not help?'"

The volunteer programs undertaken here by doctors and lawyers donating their own time to enable the police, firemen and sheriff's deputies to better serve this community are trailblazers. "No other community, to our knowledge," says Supt. Johnson, "has anything comparable to these two projects in which our professional men are giving so freely of themselves to make our police force a better instrument of community service."

A PRESIDENT'S FIRMNESS IN VIETNAM

Mr. McGEE. Mr. President, addressing a group of businessmen at the State Department yesterday, President Johnson reminded his audience that there are historical parallels for the American involvement in Vietnam.

The President recalled that Western nation's were reluctant to resist Hitler and Mussolini in the 1920's and 1930's, and that the world had to suffer the consequences of a murderous World War with millions of casualties and destroyed nations.

After the lessons of World War II, the United States embarked on a conscious policy of peace through preparedness. As the President said in his speech:

For two decades, we have made it clear that we will use our strength to block aggression when our security is threatened, and when—as in Vietnam—the victims of aggression ask for our help and are prepared to struggle for their own independence and freedom.

In his speech, the President came down very hard on those who advise the United States to shirk its responsibilities in Vietnam.

He underscored the fact that the American presence in Southeast Asia

today has served as a counterweight to the awesome presence of Communist China whose shadow increasingly darkens the prospects for peace in Asia.

These statements by the President seem to me indisputable.

The United States is not involved in a civil war, killing innocent children, and civilians as our opponents claim.

The United States is involved in a defensive war to help a small nation of 15 million people retain its independence which is threatened by a Communist-led and Communist-supported external and internal force.

If we had acted against Nazi Germany and Fascist Italy with the firmness we are using today in Vietnam, the world might have been spared the holocaust of World War II.

Those who claim that we must "withdraw"—without stating the conditions for withdrawal—as did a leader of a dissident Democratic group on television Sunday—simply do not understand history. Those who do not understand history—as George Santayana wrote—are condemned to repeat it, with all its errors.

There were misguided Americans in the 1930's who said that Hitler was not really so bad, just as some are saying communism is not so bad for Asians.

There are others who said that the takeover of Austria and Czechoslovakia was really none of our business. There were the isolationists who were ignorant of the passage of time and space, and the appeasers who were ignorant and fearful and selfish.

The United States could ignore the problems of the world in the 1930's and still survive as a civilization. But we cannot do so today.

The free society is a seamless web which stretches to all the corners of the globe. When freedom and self-determination and small nationhood is attacked, it is only a matter of time before larger nations are placed on the executioner's block.

President Johnson is being criticized for taking a strong stand in Vietnam.

This is nothing new for strong Presidents who make proper decisions.

President Roosevelt was violently attacked by the right and left for his commitment to help preserve Western civilization against the Nazis, Fascists, and Japanese militarists.

Harry Truman was attacked for committing us and the U.N. to the defense of Korea.

And Lyndon B. Johnson is being attacked for his defense of freedom in the outpost called Vietnam.

But a few years from now when passions are cooler, when Communist expansionism has been stopped in Asia—as it already is being stopped—the record will show that a strong stand, a firm stand by President Johnson and the United States was the difference between peace and war, between freedom and a new threat of slavery for the world.

I ask unanimous consent that the remarks by the President to the Foreign Policy Conference for Business Executives at the State Department yesterday be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF THE PRESIDENT TO THE FOREIGN POLICY CONFERENCE FOR BUSINESS EXECUTIVES

First I want to welcome you here and tell you how delighted I am that I can be with you. I want to thank each of you for your generosity. I have thought for some time that it was about time someone threw a benefit for Dean Rusk. This is one of the loveliest rooms to throw it in in all of Washington, even though the windows are barred.

When Dean Rusk first took his job as Secretary of State, I am told that he made one request. He wanted a room with a good view, so he was put up here on the seventh and eighth floors.

He asked for one more thing. He wanted to have the windows sealed. "Why?" he was asked. "Simple," he said, "it is too far to jump and too high for the pickets to climb."

But Dean forgot all about the birds. They tell me they flock to his window sill every single day. As everybody knows in this country, and most other countries, the Secretary of State is a very wonderfully kind, gentle, understanding and generous man. Every morning Mrs. Rusk gives him a little bag of bread crumbs to bring down to the office with him so he can feed these native birds through the day. The sparrows and the starlings seem very grateful and appreciative, but as you must have observed, there is just no pleasing the appetites of these doves and hawks.

Someone told me that there were some pickets outside while you were registering. I am getting to be an expert these days on pickets' signs myself. I think there must have been a switch in some of those that were used yesterday. The way it was reported to me, one read "Unleash Rostow."

You may have noticed that a great deal of care went into the preparation for your briefings. One reason is that business is entitled to very great respect in this country of ours. Outside of Government, it is really the only place left where a man can find a job. You may know that there are at least a few people who are out job hunting these days.

A publisher of a children's book on penguins recently sent copies to a group of youngsters to get their opinions. One young lady replied: "This is a good book on penguins—but it told me more about penguins than I wish to know."

After looking around at some of these briefers, I am afraid that you have heard a lot more about foreign policy in your briefings than you would wish to know.

The threads of foreign policy extend throughout the fabric of our national life. You cannot find the significance of any one thread without seeing its relationship to the whole.

It is not always easy to keep that in mind in the echo of gunfire.

Today, America's eyes are on Vietnam. The minds of our people are centered on the hills and rice paddies where our men are out there fighting.

Our presence in Vietnam is in keeping with a foreign policy which has guided this Nation for 20 years. Four Presidents, 11 Congresses, and the most thoughtful men of our generation have endorsed that policy and situation and have built that policy from the ground up.

For two decades, we have made it clear that we will use our strength to block aggression when our security is threatened, and when—as in Vietnam—the victims of aggression ask for our help and are prepared to struggle for their own independence and freedom.

Our strength, and America's commitment to use that strength, has served as a shield. Behind this shield, threatened nations have been able to get on with the real work of peace. They have been busy building stable societies and relieving the bitter misery of their people. Where we have been able to—where our assistance has been wanted—where it has been properly matched by self-help—we have used our wealth to help them and help feed them. For we have learned that violence breeds in poverty, disease, hunger, and ignorance.

Our purpose is not to breed violence, but to build peace.

The test of our policy is whether the time we have bought has been used to the end that we are building peace.

The evidence of 20 years suggests that we are meeting that test.

Western Europe's recovery from the ruins of war seems like ancient history to some of you here tonight. But it was only yesterday. Many thought it could not happen in our lifetime, but it did happen—with our help, and behind our shield of protection, and behind our sacrifice of lives and dollars.

Twenty years ago it was clear to the leaders of Western Europe that our shield there was necessary to their future.

Today it is equally clear to Asian leaders that our presence in Vietnam is vital, is necessary, is a must to Asia's tomorrow.

There has been much talk in the United States about the so-called "domino theory"—the theory that if South Vietnam should fall, its neighbors would topple one after the other. As I pointed out in a speech I recently made in San Antonio, the threat of Communist domination is not a matter of theory for Asians. Communist domination for Asians is a matter of life and death.

But it is now clear to all Asians that South Vietnam is not going to fall. In every capital of Free Asia that fact has already registered, and registered well. It is being acted upon. What is happening in Asia might really be called the "domino theory in reverse." We do not need to speculate about the results. We know what has happened since we made our stand clear in Vietnam.

Just a few years ago, Southeast Asia was only a geographic phrase. Its separate states had no sense of identity with each other.

All of those states were overwhelmed by the size of their own domestic problems.

Moreover—and most important—they were hypnotized by the menace of China.

Out of this fear—this sense of isolation—this awareness of desperate problems—grew something ominous. It was a paralysis of the will to progress. There was a hopeless feeling among all Asians that they were the victims, rather than the forgers, of their own destiny.

Now, in the span of a few years, all of that has changed. I am glad to say, and the major agent of that change has been America's firmness in Asia.

Behind the shield of our commitment there, hope has quickened in the nations of Asia.

They are branded together in regional institutions to attack common problems; to pool their information about how to get more from their land; to explore new ways to bring education to their villages; to join in the fight against disease; to improve their trade with each other, build new industries, and pull together for the economic development of the entire area.

I do not want to generate false optimism here tonight. I do not want to suggest that all the problems of these nations will be solved soon or easily.

But I do suggest that when men weigh the pros and cons of our commitment in Vietnam, they consider this:

The war in Asia is not merely saving South Vietnam from aggression. It is also giving Asia a chance to organize a regional life of progress, cooperation, and stability.

This is no new objective. Our Government supported the Southeast Asia Treaty in 1954 precisely because the stability of that part of the world was judged by the President

and the Secretary of State in 1954 and the United States Senate by a vote of 82 to 1 in 1955 to be vital to the security of you and your boys and your girls and your families, you Americans.

The passage of time, I think, has proved that the President, the Secretary, and the Senate's judgment was absolutely correct. I think it is vital to our security.

Now, there are a lot of people who do not think so. There are a lot of people who are looking for the fire escape and the easy way out. They were doing that in Mussolini's time. They did it in Hitler's time. They did not think that this was important to the security of the United States until it was almost too late.

We waited a long time here, but better late than never, and now, behind America's protective shield, progress is in motion in Asia where there was none just a few years ago.

This development is as significant for the peace of the whole world as the activities in Europe that I discussed, and the rebirth of Europe after World War II that all of us participated in. None of us should ever forget that more than half of all human beings in the world live in Asia, and there can be no peace in the world when half of the human beings live in an unstable condition.

On the periphery of the Orient, a new Asia is already building. I saw it. I went there last year. I visited their countries and their peoples.

As this new Asia becomes a firm reality, there is a decent hope that the people on the mainland will also turn their minds to the challenge of economic and social development. There is a decent hope that they will turn to the task of living in dignity and mutual respect with their neighbors.

But our foreign policy is concerned not merely with Asia, but with all the world. And we have acted on that judgment. I want to review very briefly, because you don't hear anything but the complaints that sometimes seem to overshadow the progress we make. The constructive decisions, the march we make forward, doesn't make very interesting reading or reporting.

We achieved a trilateral agreement with Germany and Great Britain which stabilized our troops levels in Germany and dealt with the balance of payments problems caused by their location.

We achieved a successful negotiation of the Kennedy Round bringing advantages to the whole world, and a few weeks before it looked rather grim.

We achieved a preliminary monetary accord in London which led to the agreement at Rio with all the other members of the IMF—laying the basis for a new international reserve currency.

In the face of the devaluation of the pound, we worked with the industrial nations of the Free World. Our men have been crossing back over the Atlantic on week ends to keep other exchange rates stable and the international system strong.

We are working with the Soviet Union, our NATO partners, and the other nations of the world to achieve a non-proliferation treaty—which, when complete—will give all countries the opportunity to benefit from the peaceful uses of nuclear technology while reducing the risks of nuclear war.

In this past week we have moved toward a common position with the industrialized countries of the world to establish special trading benefits which will accelerate progress among the developing nations of the world.

We have concluded this year two treaties with the Soviet Union, the Consular Treaty and the Space Treaty. They have been ratified by the United States Senate.

These achievements rarely make the headlines and interest the average citizen. But they are real achievements and real accomplishments, and a failure in any one would make a lot of noise. They represent the acceptance of joint responsibilities between enlightened leaders. And we are prepared to build upon them.

In the months ahead, I would like to see us work with the institutions of the European communities and with other industrialized nations of the world: to make our policies of assistance to the developing nations more effective.

If we have demonstrated that we can work on all of these things that I have outlined, we ought to demonstrate that we can work together in making policies of assistance to developing nations. We should work to strengthen further the world monetary situation.

To consider together the problems and possibilities of flows of capital and technology back and forth among us;

And finally, to examine together and exchange experiences on the problems we all share, the problems of the urban life, the problems of the modern-day cities that have grown every day and they have reached a point now where they must be dealt with quickly and effectively.

What we have achieved in this year goes beyond these great initiatives:

After a year's careful preparation, we had the Summit Conference at Punta del Este at which the nations of Latin America committed themselves to go forward toward economic integration—with our support.

We have moved from a dangerous war in the Middle East to an agreed resolution within which a representative of the United Nations will be seeking a stable peace for that troubled region in the months ahead. I shudder to think what could have happened if we had not taken that step and what might have happened if we had not been successful in bringing about a cease-fire in the Middle East just a few months ago.

We have worked with others to avoid massive bloodshed in the Congo. To the concerned Senators I see tonight, the last of the American C–130 transport planes will leave the Congo at the end of this week. We have thrown our support behind the regional and sub-regional efforts of the Africans to build a modern life through cooperation—a process that is quietly moving forward in East Africa and greatly advanced by the current conference at Dakar in West Africa.

Tomorrow, the Secretary early in the morning and the Vice President and I a little later in the day, will be meeting with a distinguished American who has been trying to leave public service now for about seven years. He has had to come back when we have demonstrations. He has had to go to Detroit to help when we have problems there. He has been in Cyprus and Greece and Turkey trying to solve that matter.

Mr. Cyrus Vance is returning after a successful effort in which Greece and Turkey drew back from the brink of war and opened the way to solve a serious problem.

This has been a year of remarkable constructive achievement for the people by the world community, despite the struggle in Vietnam.

If the generations which come after us live at peace at all, it is going to be because this generation held the shield and supplied the courage and the fortitude and determination by which peace was built and because we stubbornly labored to build that peace instead of finding a cheap, dishonorable way out of it.

To those of you who have come here to provide this benefit for Dean Rusk, this rather unusual event, I want to say to you that we have 41 alliances around the world where the commitment and the signature and the agreement of the United States is present—where your President and your Senate and your leadership have made commitments for this nation.

Now, Dean Rusk didn't make them and I didn't make them. We just have to keep them. If you will keep the faith, we will keep the commitments.

THE NEED FOR A UNITED NATIONS PEACEKEEPING FORCE

Mr. MONDALE. Mr. President, another near-war in Cyprus, the problems of finding a solution in the Middle East, the unending fighting in Vietnam, and numerous border or civil war incidents continually call to our attention the need for some form of peacekeeping force to take the threat of a major East-West confrontation out of localized disputes. As long as the United States or any other powerful country shoulders the entire burden of policing the world, there always will be a threat that the powers with opposing interests will become involved.

President Johnson put the matter simply:

> The world has changed and so has the method of dealing with disruptions of the peace. . . . general war is impossible and some alternatives are essential.

The "blue helmets" of the United Nations in the Middle East, the Congo, Cyprus, Kashmir, and other places have restored calm to these troubled areas, any one of which might otherwise become a battleground.

Experience has demonstrated that in contemporary conditions of world conflict, only an emergency situation, when fear of action outside the United Nations becomes greater than fear of action through it, produces enough international consensus to support a large peacekeeping operation. Once that period is over, the interest of governments lags if the operations go well, or differences develop among them over the operation itself, as in the Congo. In either case, a national willingness to cooperate in the short run is not followed by an equal willingness to make commitments for unspecified future undertakings. Careful attempts at peacekeeping have worked for awhile, only to become unglued later. Examples are this summer's war in the Middle East and the recent controversy in Cyprus.

I cosponsored a Senate resolution that called for a permanent organization of procedures to "enable the United Nations promptly to employ suitable United Nations forces for such purposes as observation and control in situations that may threaten international peace and security." Ways in which the United States could do this include—

The encouragement and support of specialized training of units by United Nations member states for employment in United Nations peacekeeping operations;

The preparation to make available to the United Nations transport communications and logistical personnel and facilities;

The preparation to advocate or support on all appropriate occasions proposals for guidelines to govern the financing, training, equipping, and duration of peacekeeping force for effective use; and

As part of the long-range development of the United Nations, the encourage-

ment and support of the creation of permanent, individually recruited force under United Nations command for impartial peacekeeping duties.

Mr. President, a recent editorial in the Minneapolis Tribune gives several reasons for establishing a U.N. peacekeeping force. I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE VIEW FROM THE TOP OF HILL 875

Visibility from the top of Hill 875, near the village of Dak To, South Vietnam, may not be any better than it is from nearby high points. But now, through the kindling that remains of the foliage, the American paratroop division which fought its way to the crest can look across to hills nearby and wonder at the magnitude of the effort.

What can be seen from the top of 875 is the proof that American fighting men are no less valorous than they have been in past wars; that the technology of firepower and logistics has become a consummate art; and that the country's military leadership has avoided the kind of calamity suffered by the French at Dien Bien Phu and near calamity of the retreat from the Yalu in Korea 17 years ago.

But there is more to Vietnam than questions of courage, technique and tactics. There is more to it than strategy, even though this is the center of most of the emotional debate—whether we are defending South Vietnam, giving its people injections of democracy, containing China, preventing the fall of Thailand and other dominoes, establishing bases on the Asian continent, or just being old-fashioned imperialists.

The deeper question is less philosophical and more practical, and it can be seen by asking what happens when some kind of settlement is achieved. The question is: Who is going to keep the peace? Who is going to keep it in Vietnam, and in the Middle East, Cyprus, The Congo, and future conflict areas?

The United States is not omnipotent. It took the strength of 16,000 men to gain Hill 875, and public reluctance to undertake other commitments abroad is evident. But to recognize limitations is not to sound the knell for internationalism's demise. We think there are precedents for an answer to the question, and that these precedents suggest renewed attention to the development of supranational force.

This does not mean the dismemberment of national military establishments, but it does mean that more is required than good intentions to carry out the idea of international supervision, a phrase common to most proposals for conflict resolution. Such a force is least effective when put together only at the time it is needed, but that has been the history. We think American dedication and ingenuity, so evident last week on Hill 875, could be directed as well toward the development now of a U.N. peacekeeping force.

PROPOSED ADMINISTRATION TAX MEASURES SUBMITTED TO CONGRESS

Mr. SMATHERS. Mr. President, there has been some confusion as to whether the administration submitted a tax bill. In order to straighten out this situation, I ask unanimous consent to have printed in the RECORD a Treasury Department release indicating that a tax bill was proposed and submitted to Congress on August 15, 1967.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

[A release from the Treasury Department, Washington, D.C., Aug. 15, 1967]

PROPOSED TAX MEASURES SUBMITTED TO CONGRESS

Secretary Fowler, at the request of the House Ways and Means Committee, today submitted the Treasury's draft of the Administration's proposed tax legislation.

Attached are copies of the proposed bill and a technical explanation.

(Attachment.)

A bill to amend the Internal Revenue Code of 1954 to impose a temporary surcharge tax, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLES, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Surcharge Tax Act of 1967".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. IMPOSITION OF TAX SURCHARGE

(a) IN GENERAL.—Subchapter A of chapter 1 (relating to determination of tax liability) is amended by inserting at the end thereof the following new part:

"PART V—TAX SURCHARGE

"SEC. 51. TAX SURCHARGE

"(a) IMPOSITION OF TAX.—

"(1) CALENDAR YEAR TAXPAYERS.—In addition to the other taxes imposed by this chapter and except as provided in subsection (b), there is hereby imposed on the income of every person whose taxable year is the calendar year, a tax equal to the percent of the adjusted tax (as defined in subsection (c)) for the taxable year specified in the following table:

"Calendar year	Percent	
	Individuals	Corporations
1967	2.5	5.0
1968	10.0	10.0
1969	5.0	5.0

"(2) Fiscal year taxpayers.—In addition to the other taxes imposed by this chapter and except as provided in subsection (b), in the case of taxable years ending on or after the effective date of the surcharge and beginning before July 1, 1969, there is hereby imposed on the income of every person whose taxable year is other than the calendar year, a tax equal to—

"(A) Ten percent of the adjusted tax for the taxable year, multiplied by

"(B) A fraction, the numerator of which is the number of days in the taxable year occurring on and after the effective date of the surcharge and before July 1, 1969, and the denominator of which is the number of days in the entire taxable year,

"(3) Effective date defined.—For purposes of paragraph (2), the 'effective date of the surcharge' means—

"(A) July 1, 1967, in the case of a corporation, and

"(B) October 1, 1967, in the case of an individual.

"(b) Low Income Exemption.—Subsection (a) shall not apply if the adjusted tax for the taxable year does not exceed—

"(1) $290, in the case of a joint return of a husband and wife under section 6013,

"(2) $220, in the case of an individual who is a head of household to whom section 1(b) applies, or

"(3) $145, in the case of any other individual (other than an estate or trust).

"(c) Adjusted Tax Defined.—For purposes of this section, the adjusted tax for a taxable year means the tax imposed by this chapter (other than by this section, section 871(a) or section 881) for such taxable year, reduced by any credit allowable for such year under section 37 (relating to retirement income) computed without regard to this section.

"(d) Authority to Prescribe Composite Tax Rates and Tables.—The Secretary or his delegate may determine, and require the use of, composite tax rates incorporating the tax imposed by this section and prescribed regulations setting forth modified optional tax tables computed upon the basis of such composite rates. The composite rates so determined may be rounded to the nearest whole percentage point as determined under regulations prescribed by the Secretary or his delegate. If, pursuant to this subsection, the Secretary or his delegate prescribes regulations setting forth modified optional tax tables for a year, then, notwithstanding section 144(a), in the case of a taxpayer to whom a credit is allowable for such taxable year under section 37, the standard deduction may be elected regardless of whether the taxpayer elects to pay the tax imposed by section 3.

"(e) ESTIMATED TAX.—For purposes of applying the provisions of this title with respect to declarations and payments of estimated income tax due more than 45 days (15 days in the case of a corporation) after the enactment of this section—

"(1) In the case of a corporation, so much of any tax imposed by this section as is attributable to the tax imposed by section 11 or 1201(a) or subchapter L shall be treated as a tax imposed by such section 11 or 1201 (a) or subchapter L;

"(2) The term 'tax shown on the return of the individual for the preceding taxable year', as used in section 6654(d)(1), shall mean the tax which would have been shown on such return if the tax imposed by this section were applicable to taxable years ending after September 30, 1966, and beginning before July 1, 1968; and

"(3) The term 'tax shown on the return of the corporation for the preceding taxable year', as used in section 6655(d)(1), shall mean the tax which would have been shown on such return if the tax imposed by this section were applicable to taxable years ending after June 30, 1966, and beginning before July 1, 1968.

"(f) Western Hemisphere Trade Corporations and Dividends on Certain Preferred Stock.—In computing, for a taxable year of a corporation, the fraction described in—

"(1) Section 244 (a)(2), relating to deduction with respect to dividends received on the preferred stock of a public utility,

"(2) Section 247 (a)(2), relating to deduction with respect to certain dividends paid by a public utility, or

"(3) Section 922 (2), relating to special deduction for Western Hemisphere trade corporations,

the denominator shall, under regulations prescribed by the Secretary or his delegate, be increased to reflect the rate at which tax is imposed under subsection (a) for such taxable year.

"(g) Withholding on Wages.—In the case of wages paid after September 30, 1967, and before July 1, 1969, the amount required to be deducted and withheld under section 3402 shall be determined in accordance with the following tables in lieu of the tables set forth in section 3402 (a) or (c)(1).—

Tables to be used in lieu of tables in section 3402 (a)

[Interest Tables 1–6, 8.] [Not printed in RECORD.]

"TABLE 7.—IF THE PAYROLL PERIOD WITH RESPECT TO AN EMPLOYEE IS ANNUAL

"(a) Single Person (including head of household):

If the amount of wages is—	The amount of income tax to be withheld shall be—
Not over $200	0.
$200 to $1,200	14 percent.
$1,200 to $1,300	$160 plus 17 percent.
$1,300 to $4,440	$177 plus 19 percent.
$4,400 to $8,800	$766 plus 22 percent.
$8,800 to $11,000	$1,734 plus 28 percent.
Over $11,000	$2,350 plus 33 percent.

(b) Married person—

If the amount of wages is—	
Not over $200	0.
$200 to $2,200	14 percent.
$2,200 to $4,400	$320 plus 17 percent.
$4,400 to $8,800	$694 plus 19 percent.
$8,800 to $17,700	$1,530 plus 22 percent.
$17,700 to $22,000	$3,488 plus 28 percent.
Over $22,000	$4,692 plus 33 percent."

Tables to be used in lieu of tables in section 3402(c)(1). [Not printed in RECORD.]

(b) MINIMUM DISTRIBUTION.—Section 963 (b) (relating to receipt of minimum distributions by domestic corporations) is amended—

(1) by striking out the heading of paragraph (1) and inserting in lieu thereof the following:

"(1) Taxable years beginning in 1963, 1967, and 1968.—", and

(2) by striking out the heading of paragraph (3) and inserting in lieu thereof the following:

"(3) Taxable years beginning in 1965, 1966, and after December 31, 1968.—".

(c) CLERICAL AMENDMENT.—The table of parts of subchapter A of chapter 1 is amended by adding at the end thereof the following:

"PART V. TAX SURCHARGE"

(d) EFFECTIVE DATE.—The amendments made by this section shall apply—

(1) Insofar as they relate to individuals, with respect to taxable years ending after September 30, 1967, and beginning before July 1, 1969.

(2) Insofar as they relate to corporations, with respect to taxable years ending after June 30, 1967, and beginning before July 1, 1969.

SEC. 3. RAISING FROM 70 PERCENT TO 80 PERCENT THE ESTIMATED TAX WHICH MUST BE PAID IN INSTALLMENTS BY CORPORATIONS.

(a) IN GENERAL.—Section 6655(b) (relating to amount of underpayment), and section 6655(d) (relating to exception), are amended by striking out "70 percent" each place it appears therein and inserting in lieu thereof "80 percent".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1967.

SEC. 4. PAYMENT OF FIRST $100,000 OF ESTIMATED TAX.

(a) REQUIREMENT OF DECLARATION.—Section 6016(a) (relating to requirement of declaration of estimated tax in case of corporations) is amended by striking out "$100,000" and inserting in lieu thereof "$40."

(b) REDUCTION OF EXCLUSION FROM ESTIMATED TAX.—Section 6016(b) (relating to the definition of estimated tax in the case of a corporation) is amended to read as follows:

"(b) ESTIMATED TAX.—

"(1) DEFINITION.—For purposes of this title, in the case of a corporation, the term 'estimated tax' means the excess of—

"(A) the amount which the corporation estimates as the amount of the income tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, reduced by the amount which the corporation estimates as the sum of any credits against tax provided by part IV of subchapter A of chapter 1, over

"(B) an amount equal to the applicable exclusion percentage (determined under paragraph (2)) multiplied by the lesser of—

"(i) $100,000, or

"(ii) the amount determined under subparagraph (A).

"(2) Exclusion percentage.—The term 'exclusion percentage' means—

"If the declaration is for a taxable year beginning in: The exclusion percentage is:

1968	80
1969	60
1970	40
1971	20
1972 or later	0"

(c) EXCEPTION FROM ADDITION TO TAX.—Section 6655 (d)(1) is amended by striking out the phrase "reduced by $100,000" and inserting in lieu thereof "reduced by an amount equal to the applicable exclusion percentage, determined under section 6016 (b)(2), multiplied by the lesser of $100,000 or the amount of such tax."

(d) ADDITION TO TAX FOR UNDERPAYMENT OF ESTIMATED TAX.—Section 6655 (e) (relating to the definition of tax) is amended to read as follows:

"(e) DEFINITION OF TAX.—For purposes of subsection (b), (d)(2), and (d)(3), the term 'tax' means the excess of—

"(1) the amount of tax imposed by section 11 or 1201 (a), or subchapter L of chapter 1, whichever is applicable, reduced by the sum of any credits against tax provided by part IV of subchapter A of chapter 1, over

"(2) an amount equal to the applicable exclusion percentage, (determined under section 6016 (b)(2)), multiplied by the lesser of—

"(A) $100,000, or

"(B) the amount determined in paragraph (1)."

(e) TECHNICAL AMENDMENT.—Clause (v) of section 243(b)(3)(C) is amended by striking out "$100,000".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1967.

SEC. 5. POSTPONEMENT OF CERTAIN EXCISE TAX RATE REDUCTIONS.

(a) PASSENGER AUTOMOBILES.—

(1) IN GENERAL.—Subparagraph (A) of section 4061(a)(2) (relating to imposition of tax) is amended to read as follows:

"(A) Articles enumerated in subparagraph (B) are taxable at whichever of the following rates is applicable:

"Seven percent for the period beginning with the day after the date of the enactment of the Tax Adjustment Act of 1966 through June 30, 1969.

"Two percent for the period July 1, 1969, through December 31, 1969.

"One percent for the period after December 31, 1969."

(2) CONFORMING AMENDMENTS.—Section 6412(a)(1) (relating to floor stocks refunds on passenger automobiles, et cetera) is amended by striking out "April 1, 1968, or January 1, 1969" and inserting in lieu thereof "July 1, 1969, or January 1, 1970".

(b) COMMUNICATION SERVICES.—Section 4251 (relating to tax on communications) is amended—

(1) By striking out subsection (a)(2) and inserting in lieu thereof:

"(2) The rate of tax referred to in paragraph (1) is as follows:

	Percent
"Amounts paid pursuant to bills first rendered:	
"Before July 1, 1969	10
"After June 30, 1969, and before January 1, 1970	1"

(2) By striking out subsection (b) and inserting in lieu thereof:

"(b) Termination of Tax.—The tax imposed by subsection (a) shall not apply to amounts paid pursuant to bills first rendered on or after January 1, 1970."

(3) By striking out subsection (c) and inserting in lieu thereof:

"(c) Special Rule.—For purposes of subsection (a), in the case of communications services rendered before May 1, 1969, for which a bill has not been rendered before July 1, 1969, a bill shall be treated as having been first rendered on June 30, 1969. For purposes of subsections (a) and (b), in the case of communications services rendered after April 30, 1969, and before November 1, 1969, for which a bill has not been rendered before January 1, 1970, a bill shall be treated as having been first rendered on December 31, 1969."

(c) Effective Date.—The amendments made by this section shall be effective on the date of enactment of this Act.

TECHNICAL EXPLANATION SURCHARGE TAX ACT OF 1967

This bill, which is entitled the "Surcharge Tax Act of 1967", has four substantive sections:

(1) Section 2 imposes a temporary surcharge on both individual and corporate income tax liabilities at an annual rate of 10 percent.

(2) Section 3 raises from 70 percent to 80 percent, the percent of its estimated tax which a corporation may pay by installments without incurring a penalty.

(3) Section 4 eliminates, over a five-year period, the $100,000 estimated tax exemption presently granted corporations.

(4) Section 5 suspends the schedule for the reduction of the excise taxes on passenger automobiles and telephone services during the period of the temporary surcharge.

There follows a more detailed description of each of these provisions.

Section 1 of the bill sets forth its title.

Section 2. Tax Surcharge.

(a) *Imposition of tax.* Subsection (a) of section 2 of the bill adds a new part to subchapter A of chapter 1 of the Internal Revenue Code which consists of a new section 51 imposing a temporary tax surcharge on corporations and individuals.

General Provisions. Subsection (a) of the new section 51 provides for the imposition of the surcharge. The tax is at an annual rate of 10 percent of tax liability (adjusted as provided in section 51(c)) and is effective from July 1, 1967, through June 30, 1969, for corporations and from October 1, 1967, through June 30, 1969, for individuals. For taxpayers who report their income on a calendar year basis, the rate of the surcharge for the calendar years involved is as follows:

Calendar year	Percent of tax	
	Individuals	Corporations
1967	2.5	5
1968	10.0	10
1969	5.0	5

In the case of taxpayers who report their income on a fiscal year basis, the rate will be 10 percent for years falling entirely within the effective dates, whereas, in the case of taxable years that straddle either the commencement or termination date, the tax will be prorated depending on the number of days in the taxable year falling within the period the tax is in effect.

Low income exemption. Subsection (b) of the new section 51 provides an exemption from the surcharge for individuals (other than estates and trusts) whose tax does not exceed that generally applicable to the first two brackets of taxable income. More specifically, the surcharge will not apply to a husband and wife filing a joint return if their tax does not exceed $290. It will not apply to a head of household whose tax does not exceed $220, or to a single individual (or a married individual filing a separate return) whose tax does not exceed $145. In the case of a head of household, the exemption level is determined on the basis of the tax applicable to $1,500 of taxable income which is midway between the first two tax brackets

of a single individual and the first two tax brackets of a married couple filing a joint return.

Tax base on which surcharge is computed. Subsection (c) of the new section 51 provides that the surcharge shall be computed as a percentage of the tax otherwise imposed by chapter 1 of the Internal Revenue Code, with the exception that it shall not be imposed with respect to the 30 percent tax under sections 871(a) and 881 on nonresident alien individuals and foreign corporations receiving income not effectively connected with a business in the United States. In the case of an elderly person who is eligible for the retirement income credit, the surcharge will be computed as a percentage of his tax liability after subtracting his retirement income credit. Similarly, tax liability shall be reduced by the retirement income credit in determining whether such an individual is eligible for the low income exemption. This treatment is afforded the retirement income credit in order to give it the same effect on the surcharge as the exclusion for social security benefits. Tax liability would not be reduced by any other credits in computing the amount of the surcharge. On the other hand, once the surcharge has been computed, it may be offset by credits to which the taxpayer is entitled and which are not absorbed by his regular tax liability.

Authority to prescribe composite tax rates and tables. Subsection (d) of the new section 51 provides that the Secretary of the Treasury or his delegate may compute composite income tax rates incorporating the surcharge and prescribe regulations setting forth modified optional tax tables computed on the basis of such composite rates. The composite rates may be rounded to the nearest whole percentage point. If the Secretary or his delegate exercises his authority under this subsection, he may require taxpayers to use the rates and/or tables he has prescribed.

Moreover, if he prescribes optional tax tables incorporating the surcharge, the usual rule that a taxpayer with less than $5,000 of income may take the standard deduction only if he uses the optional tax tables will be waived in the case of a taxpayer who is eligible for the retirement income credit. This special rule is to reflect the fact that the effect of the retirement income credit on the surcharge cannot be accurately incorporated into the optional tax tables, with the result that those claiming the retirement income credit will almost universally use the regular tax computation. Under these circumstances, without the special rule, most taxpayers claiming the retirement income credit would be precluded from using the standard deduction.

Estimated tax. Subsection (e) of the new section 51 contains provisions conforming the estimated tax provisions to the new surcharge tax. Under present law, corporations are required to pay estimated tax only with respect to taxes imposed by section 11 or 120(a) or subchapter L (relating to insurance companies). The new subsection (e)(1) provides that any surcharge that is attributable to a tax imposed under these sections or subchapter shall, for estimated tax purposes, be treated as a tax imposed under these sections or subchapter and, therefore, subject to estimated tax payments. Paragraphs (2) and (3) of the new subsection (e) provide that, in the case of the option under which individuals and corporations may pay their estimated tax on the basis of their prior year's tax liability, this prior year's liability shall be adjusted to reflect the surcharge tax.

Under the provisions of the new subsection (e), corporations would be required to reflect the surcharge in their first estimated tax payment due more than 15 days after the bill is enacted. For individuals, the surcharge would have to be reflected in the first estimated tax payment due more than 45 days after the enactment of the bill.

Western Hemisphere Trade Corporations and dividends on certain Preferred stock. The following two provisions of the Internal Revenue Code provide a special deduction with respect to certain income which has the effect of reducing the corporate tax rate applicable to that income by 14 percentage points. These provisions are:

(1) Section 922, relating to the taxable income of Western Hemisphere Trade Corporations; and

(2) Section 247, relating to dividends paid by a public utility on its preferred stock.

Section 244 provides a reciprocal deduction with respect to amounts received as dividends on certain preferred stock of a public utility. In order to maintain the 14 percentage point differential under these sections, subsection (f) of the new section 51 provides that the computation shall be adjusted, under regulations prescribed by the Secretary of the Treasury or his delegate, to reflect in the regular corporate tax rate the surcharge imposed under the new section 51.

New withholding tables. Subsection (g) of the new section 51 sets forth new tables for computing the amount of income taxes to be withheld from wages paid on or after October 1, 1967, and before July 1, 1969. These tables reflect an increase in the withholding rates of 10 percent.

(b) *Minimum distributions by foreign subsidiaries.* Subsection (b) of section 2 of the bill amends section 963(b) (relating to receipt of minimum distributions by domestic corporations from their foreign subsidiaries) to provide for the use of a minimum distribution table reflecting the surcharge. The new table is to be used for taxable years beginning 1967 and 1968. It is the same table that was applicable for taxable years beginning in 1963 when the corporate tax rate was 52 percent (the present corporate tax rate including the additional surcharge is 52.8 percent).

(c) *Clerical amendment.* Subsection (c) of the new section 51 makes a clerical amendment to reflect the addition of the new Part V imposing the surcharge.

(d) *Effective date.* Subsection (d) of the new section 51 provides the effective dates for the surcharge. These dates are explained in the discussion under subsection (a) of the bill.

Section 3. Increase from 70–80 percent the amount of estimated tax which corporations must pay in installments.

Under present law, a corporation is not penalized for an underpayment of estimated tax if its payments equal or exceed those which would be required on the basis of estimated tax liability of 70 percent of actual tax liability (less $100,000). Section 3 of the bill amends section 6655 to raise the 70-percent figure to 80 percent. This conforms the percentage for corporations to that made applicable to individuals beginning in 1967. This change would be effective for taxable years beginning after December 31, 1967.

Section 4. Payment of first $100,000 of estimated tax.

Under present law, corporations are required to make estimated tax payments only with respect to their estimated tax liability in excess of $100,000. They are not required to make any estimated tax payments on their first $100,000 of estimated tax liability and, if their annual estimated tax liability is $100,000 or less, they are not required to file a declaration. Under section 4 of the bill, the $100,000 exclusion would be repealed over a five year period.

More specifically, subsection (a) of section 4 of the bill would amend section 6016 (a) to require a corporation to file a declaration of estimated tax for a taxable year if it can reasonably be expected that its tax liability for the year (after taking into account credits) will exceed $40. As indicated above, the present exemption level is $100,000.

Subsection (b) of section 4 of the bill amends section 6016(b) to provide a new definition of "estimated tax" (which is the basic amount subject to payment by installment) reflecting the removal of the existing $100,000 exemption over a five year period. During the transition period, a corporation, in determining the amount of its estimated tax liability, would be permitted to exclude an amount equal to the applicable "exclusion percentage" multiplied by the lesser of (1) $100,000, or (2) the amount which the corporation estimates as its income tax for the year less the estimated amount of its credits. The revised subsection (b) of section 6016 would define the term "exclusion percentage" as follows:

If the declaration is for a year beginning in:	The "exclusion percentage" is:
1968	80
1969	60
1970	40
1971	20

In the case of taxable years beginning after 1971, there would be no special exemption.

As an example of the transition rule, a corporation which estimates its income tax less credits for 1968 to be $80,000 would be entitled to an estimated tax exclusion of $64,000 for 1968; 80 percent (its exclusion percentage) times $80,000. Its estimated tax liability would, therefore, be $16,000. If the corporation estimates its income tax less credits for 1968 to be $120,000, its estimated tax exclusion would be $80,000 (80 percent times $100,000) and its estimated tax liability would be $40,000.

Subsection (d) of section 4 of the bill amends section 6655(e) to reflect the repeal of the $100,000 exemption in the provisions for determining whether, and if so, to what extent, an addition to the tax should be imposed for underpayment of estimated tax. The same transitional rules apply. Thus, for example, assume a corporations' tax return for the taxable year ending December 31, 1968, indicates an income tax liability of $150,000. To utilize the exception provided in section 6655(d)(1) permitting estimated tax payments to be based on the prior year's tax, such corporation would be required to pay for 1969 an estimated tax of $90,000, computed as follows:

1968 income tax liability	$150,000
Less: $60,000; 60 percent (the exclusion percentage for 1969) times $100,000	60,000
Total	90,000

Subsection (3) of section 4 of the bill amends section 243(b)(3)(C) (relating to estimated tax exemption for members of an affiliated group) to reflect the repeal of the $100,000 exemption.

Subsection (f) of section 4 of the bill provides that the amendments made by this section shall apply to estimated tax payments for taxable years beginning after December 31, 1967.

Section 5. Postponement of certain excise tax rate reductions.

(a) *Passenger Automobiles.* Under present law an excise tax of 7 percent of the selling price is imposed on the sale by the manufacturer, producer, or importer of passenger automobiles. This rate is scheduled to be reduced to 2 percent on April 1, 1968, then to 1 percent after December 31, 1968.

Subsection (a) of Section 5 of the bill suspends this schedule of reductions for the period during which the temporary surcharge will be in effect. Thus, the present 7 percent rate will remain in effect until July 1, 1969. A rate of 2 percent will apply to sales between July 1, 1969, and December 31, 1969, with a 1 percent rate applying to all sales after December 31, 1969. Conforming amendments are made so that floor stocks refunds will apply on the corresponding date of each reduction.

(b) *Communication Services.* Under pres-

ent law, an excise tax of 10 percent is imposed on amounts paid for local and long distance telephone service (including teletypewriter service). A reduction of the rate to 1 percent is scheduled to apply to amounts paid pursuant to bills rendered on or after April 1, 1968, with the tax scheduled to terminate entirely as to bills rendered on or after January 1, 1969.

Subsection (b) of Section 5 of the bill suspends this schedule of reductions for the period during which the temporary surcharge will be in effect. Thus, the present 10 percent rate will continue to apply until July 1, 1969, at which time the scheduled reduction to 1 percent will take effect. The tax will terminate on January 1, 1970. A conforming amendment makes corresponding changes in the dates applicable under the special rules established under present law to adjust for billing practices.

(c) *Effective Date.* Subsection (c) of section 5 of the bill provides that the amendments made by this section shall apply as of the date of enactment of the bill.

THE F–111A AIRCRAFT

Mr. TOWER. Mr. President, there has been a good deal of discussion in the Senate about the F–111 aircraft. I have attempted to point out from time to time that we are talking about two versions of aircraft—the F–111A and the F–111B. I also have suggested that the delay in F–111B work not be confused with the satisfactory progress on the F–111A.

Accordingly, I have shared with Senators a number of reports on the F–111A by the pilots who actually fly it. Claude Witze, senior editor of Air Force Space Digest magazine, has summed the matter up well in an article entitled "E–111A: The Men Who Fly It Like It," published in that magazine's December edition.

I ask unanimous consent that the article be printed in the RECORD so that all Senators may review it. I ask unanimous consent that there also be printed a chart entitled the "F–111 Industry Team."

There being no objection, the items were ordered to be printed in the RECORD, as follows:

F–111A: THE MEN WHO FLY IT LIKE IT

(By Claude Witze)

Born and bred in an atmosphere of unprecedented controversy, the Air Force's General Dynamics F–111A now has combat veterans in the cockpit and they are enthusiastic about the potential of their new airplane.

These Air Force pilots consider the F–111A weapon system the greatest single technological jump designed for their mission since the wedding of the jet engine and modern avionics. The F–111A, they predict, will let them hit tactical targets harder, with greater accuracy, and at longer ranges than any other airplane in the USAF inventory or likely to join it in the foreseeable future.

It must be made clear at the outset of this report that the subject is the USAF F–111A, and that airplane alone. The first production models, configured for operational use, are now being delivered to Nellis Air Force Base, near Las Vegas, Nev. The Tactical Air Command is using them to equip the 4480th Tactical Fighter Wing. The pioneering unit is Detachment 1, 4481st Tactical Fighter Squadron, commanded by Col. Ivan H. Dethman.

Equally important, from the standpoint of operational capability, is the test work under way at the Air Proving Ground Center at Eglin AFB in Florida. Here, USAF has come to realize that the F–111A is a vehicle incorporating advances in the state of the art that have outpaced the technology incorporated in the available weaponry it can carry.

Maj. Gen. Andrew J. Kinney, APGC Commander, speculates that improved bombs, equipped with terminal-guidance systems, may turn out to be the most important addition to airpower capability since World War II. As this issue goes to press, Defense Secretary Robert McNamara has made the first public disclosure of the fact that Walleye, a bomb that carries a TV camera to seek out its target, is being used in Vietnam. Earlier this year, veterans back from Southeast Asia were complaining loudly that they had seen no improvement in the technique of delivering iron bombs. Walleye, developed by the Navy, is now also being used by USAF. It is made by the Martin Marietta Corp.

Walleye, of course, has limitations imposed by night, bad weather, and other hindrances to visibility because of its TV "eye." So APGC is working hard on other more advanced projects, all of them highly classified. The urgency of these projects clearly has been compounded by the F–111A. Back at Nellis AFB, where the users are aiming for operational capability by early 1968, you can talk to pilots who say, first, that the new airplane is more accurate than the bombs it drops. Even before production airplanes started to arrive, they found the F–111A delivery of plain old-fashioned iron bombs to be twice as accurate as that of its predecessors, the F–105 and F–4.

Even this is not good enough, says General Kinney, nor as good as we can do. Further accuracy must be achieved and made operational as fast as possible. The point, of course, is that the avionics subsystems in the F–111A—both navigation and attack systems—can work together to position the plane in the air with unprecedented accuracy. The pilot knows exactly where he is when the bomb is released. He still does not know exactly where the bomb will hit. Basically, that is why we have lost up to sixteen aircraft, flying 160 sorties to demolish one bridge in Vietnam. The cost/effectiveness of the improved F–111A system, with an aircraft that can position itself automatically in any kind of weather or visibility, if it can drop a bomb that can be steered to the target, is obvious.

The pilots at Nellis display no doubt that the F–111A will achieve this capability. At Nellis, as well as Eglin, Edwards AFB, the Aeronautical Systems Division at Wright-Patterson AFB in Dayton, and Air Force Systems Command Headquarters, Andrews AFB, Md., there is one common observation. It is put most succinctly by Brig. Gen. Ralph G. Taylor, Jr., Commander of the Tactical Fighter Weapons Center at Nellis:

"Nobody is qualified to pass judgment on the F–111A until he has flown it. I wish the critics who have not flown it would come out here and talk to our pilots."

One of his pilots, interviewed on the flight line, agreed with the boss in the kind of language you hear around a hangar:

"The guys who bad-mouth this airplane," he said, "are the guys who never got in the cockpit."

Nellis is where USAF makes Ph.D.s out of fighter pilots. The current F–111A program, called Harvest Reaper, is manned by veterans of the Korean and Vietnam Wars, men who have faced flak and Soviet MIGs in F–105s, F–4s, F–86s, F–104s, and F–84s. Harvest Reaper is the Accelerated Testing and Training Program for the F–111A, launched last July when the first of five aircraft, built for research, development, test, and evaluation (RDT&E), was shifted to the Nevada base from Edwards AFB in California.

By September, the new wing had set an unprecedented record. During that month, the five planes flew a total of 304.1 hours, an average utilization rate of 60.8 hours per aircraft. In October, the month in which the first production model was delivered and added to the Harvest Reaper stable, the rate hardly wavered. It was 59.7 hours per aircraft. The stated requirement for the F–111A is thirty hours per aircraft. The best previous records set at Nellis on other aircraft have been in the area of thirty-eight hours a month per aircraft. This has been with systems far less complex than those of the F–111A.

Colonel Dethman emphasizes that the five airplanes are all different, that they are not production models, and that they offer a type of disparity, both as to maintenance and the flight envelope, that his wing will not face when it has production aircraft. Airplane No. 31 (*see cover*), flown into Nellis on October 16 by Colonel Dethman, was the first F–111A to be delivered fully configured for operational use.

The thirty-first F–111A and the following aircraft now being delivered to Nellis incorporate two improved Pratt & Whitney TF30–P3 engines, modified engine air inlets, an attack radar, and other changes not included on all of the test aircraft.

These are changes that both air and ground crews await with a new kind of impatience. Of the features already aboard, in the preproduction models flown by Harvest Reaper pilots, the men are most enthusiastic about the avionics. The radar and navigation systems, all agree, are the best they have ever seen.

It is not difficult to find pilots at Nellis who entered the F–111A program with a high degree of skepticism. And it is not entirely gone. A typical major, an F–105 veteran of Vietnam who has shot down a MIG, says that so far he has been learning what he can do with a new and different kind of weapon system.

"It is not possible," he says, "to compare the F–111A with other planes I have flown—the F–105, RF–101, F–86, or F–84. This thing is entirely new and different, and I know there is no single answer to all our problems. The F–111A is easy to fly, but there have been some deficiencies in the RDT&E planes we have been using. But I expect they will be licked, for the most part, when we all have production models."

This man is struggling to get used to the side-by-side seating arrangement. The avionics systems are monitored, for the most part, by the man on the right. The pilot simply can't see out that side of the cockpit from his seat on the left. The veteran, of course, has been able to look right or left and over his shoulder on each side and past the tail. He does have a detector in the tail that can tell him when he is being followed, but it does not identify what it is that is coming up behind. This can be disquieting to a combat veteran who is used to single or tandem seating. The F–111A provides four eyes to look straight ahead, which has its advantages, and the electronic systems provide new low-level capability for day or night missions.

A recent illustration was provided by Colonel Dethman when he flew F–111A No. 31 from the General Dynamics plant at Fort Worth, Tex., to Nellis. It was an automatic flight, less than 1,000 feet above the ground for 1,047 miles. Colonel Dethman used the controls only on takeoff and landing.

The terrain-following radar (TFR) makes the F–111A capable of day or night low-altitude penetration of subsonic or supersonic speeds. It does not have to be automatic, but can be set for manual operation, which might be necessary to evade enemy defenses, particularly where they are as heavy and diverse as they are in North Vietnam. A safety feature is that the system continuously checks its own operation. If there is a malfunction, the aircraft goes to a higher altitude. The radar is the AN/APQ–110

made by Texas Instruments and is used in partnership with the flight control system made by General Electric.

One pilot, interviewed at Nellis, had drawn up his own list of what he considered good, fair, and poor about the F–111A. His opinion is based on close to 100 hours in the preproduction (RDT&E) models.

Under *good*, this veteran lists range, endurance, bomb load, stability, flight control, navigation, radar, bombing systems, and landing characteristics.

The maneuverability and takeoff distance he rated as *fair*. Under *poor*, he was critical of the thrust and subsonic acceleration provided by the early model engine, the air-to-air radar capability, and the manual operation of the scope camera.

This brings up the whole subject of the Pratt & Whitney engines, their role in the development problems, and the various versions of the engine. The first five aircraft at Nellis, RDT&E models, are powered by the TF30–P1. The production airplanes have the TF30–P3, with modified air inlets.

Maj. Gen. John L. Zoeckler, Deputy Chief of Staff for Systems at AFSC and former director of the F–111 program, is first to admit that the most serious deficiency at the outset was the matching of the airplane and the engine. There were compressor stalls, especially at high speeds and altitudes. He is confident this has been corrected and that the TF30's combination of turbofan and afterburner will guarantee low fuel consumption for long-range subsonic flight. The feature was demonstrated when an early F–111A was flown nonstop to the Paris Air Show last June.

The unusual thing about the F–111A afterburner is that the pilot is not restricted to using it for a "kick-in-the-pants" approach to higher speed levels. For the first time, he can use more than "power-on" and "power-off" settings for the afterburner. He can take advantage of a smooth range of thrust augmentation, going through five zones of afterburner application.

The experience at Eglin AFB and Edwards AFB also shows that the graduated afterburner contributes to fuel economy, when that is important to a mission.

General Kinney, at Eglin, has his own list of major advantages he sees in the F–111A. On one of his first flights, with a contractor pilot, he was instructed to set the TFR dial for fifty feet and let the plane go to that altitude and skim the ground. At the moment he got the instruction he was at 20,000 feet. General Kinney says it was difficult to resist grabbing the stick as the aircraft started to go down fast, seeking the fifty-foot level. He managed to leave it alone, and the F–111A leveled out at fifty feet and continued the mission, automatically. The General says he was convinced that the plane is safer and puts the pilot in a better position to do his job, visually or blind, than any other aircraft he has seen.

The F–111A can operate from short runways. It needs 1,500 to 3,000 feet to land. With a heavy load it can take off in less than 5,000, usually about 3,500 feet. The landing speed is in the range of 125 to 130 miles an hour, with no drag chute employed. Outside of what it contributes to safety, this feature increases the flexibility of the F–111A by permitting it to operate out of available airports in more undeveloped countries. It is attributable, of course, to the variable-sweep wing, which lets the pilot redesign the airplane in flight for a range of speeds from slow to supersonic.

The aspect ratio of the F–111A wing, a characteristic that is important in achieving long range, is on the order of 6.9 with the wing at cruise position. Aspect ratio of a 727 airliner is 7.1, and that of the military F–4 fighter is 2.82.

Those who have never flown the airplane have been free with criticism of the F–111A. For this report, the men who have flown it were asked to assess some typical fault-finding. Here is a résumé of their answers, compiled from sources at five USAF commands:

The first thirty F–111As have performed so poorly they will never be fit for active service. The first thirty never were intended for active service. They are for RDT&E. No two are entirely alike. Hundreds of changes were made before No. 31, the first production aircraft, was built, and more changes will come. The deficiency lists on the early aircraft are no longer than and no different from the same lists for other aircraft now in the fighting inventory. This is routine in the development of new weapon systems. If it were not true, it would be an indication that the aircraft would be obsolescent before it was operational.

The thirty-first F–111A still falls short of several requirements. Correct, if you substitute *specification* for requirements. With the changes that were incorporated in the design, weaponry, and subsystems, some original performance specifications had to be revised. The substitution of iron bombs, hanging on pylons under the wings, for internally carried nuclear weaponry, is an example. This has increased the versatility of the F–111A and thus its effectiveness. The airplane also falls short in low-level dash range, but still is acceptable to the using commands and will carry out its mission. It is not unusual for the user to ask, initially, for more than he can get. But it is a good way to make progress, and the F–111A still has a supersonic dash capability superior to that of any other aircraft in the world today.

USAF specified a 40,000-foot ceiling. No. 31 will not be able to operate above 30,000 feet with a bomb load. USAF specified much more than 40,000 feet, but not with a bomb load. There was no requirement fixed for a ceiling with externally mounted iron bombs. The F–111A can carry up to forty-eight of them hanging on four pylons under each wing. Work is under way at Eglin AFB to provide bombs with guidance and better aerodynamic properties.

Because of buffeting, the size of the speed brakes was reduced until they are largely ineffective. The speed brakes are effective. The buffeting is undesirable but not uncontrollable. This is not a major problem. From a practical viewpoint, the variable-sweep wing is the best speed brake on the airplane.

Takeoff weight of the F–111A has increased from 69,000 pounds to nearly 90,000 pounds. This is true when the aircraft is fully loaded with iron bombs. The 69,000-pound figure was for a load of one nuclear bomb and two GAR–8 rockets. The aircraft can take off weighing up to 98,000 pounds. USAF now wants tires qualified to support a weight of 100,000 pounds.

The ferry range is 800 miles less than USAF required. Wrong. The F–111A can remain on patrol hours longer than any other fighter. The flight to the Paris Air Show was 2,900 miles. On arrival, there were two hours of fuel remaining.

There are engine troubles still unfixed. The TF30–P3 will resolve afterburner problems encountered in the RDT&E aircraft, as well as thrust deficiencies. There is confidence that most basic development problems in the engine have been solved.

Anyone who seeks out the men most familiar with the F–111A will come up with scores of observations and related experiences that they use to express their high hopes for the new system. Here are some examples:

A General Dynamics pilot, at Eglin, had a malfunction in his bomb-release mechanism, after releasing one bomb. If he dumped the remainder in the Gulf of Mexico, he might lose all clues about the malfunction. He elected to land with nineteen 750-pound bombs under his wings. The plane stopped in less than 5,000 feet of runway. The bombs were loaded with cement.

The TFR equipment astounds the veterans. For the first time, pilots have had the experience, flying automatically at 200 feet, of passing *beneath* the level of a TACAN station.

Every pilot in the program knows that the F–111A was not intended to perform up to specifications, or meet requirements, until aircraft No. 31 was delivered in October. They feel that criticism before this date was premature and that the aircraft follows the pattern set for all earlier weapon systems. In many cases, the first test results were identical with those experienced on other aircraft. Specifications were much higher than requirements; that also is normal.

The airplane, in its test program, has set an extraordinary record for safety. Far fewer aircraft have been lost than USAF experienced in previous similar programs (*see accompanying table*).

The high utilization rate of the first five aircraft at Nellis is attributed almost entirely to the maintenance and reliability features of the F–111A. General Dynamics officials point out that their contract is the first one to include "specific quantitative maintainability requirements." This means that reliability and ease of maintenance had to be designed into the aircraft. Ninety-five percent of the components that need service are eye level when the mechanics remove the fuselage plates.

Reliance on ground-support equipment (GSE) is reduced by self-testers built into the aircraft's subsystems. In contracting for these subsystems, General Dynamics has passed the basic USAF requirement along to the subcontractors. The reliability and ease of maintenance was not easily achieved. No supplier met the demand on the first design effort. As a rule, it took three exercises, back at the drawing board, to satisfy the prime contractor that the results would suit the customer.

Another factor, according to General Dynamics, was that, in this case, full funding was provided for the ground-support equipment early in the program. This is not always so and in the past has resulted in the delivery of new weapon systems that could not be properly maintained until all GSE was available.

So far as the self-test equipment is concerned, some of it can be operated directly from the cockpit, giving the aircraft commander and pilot an instant check. The remainder is available through test stations, manually operated after fuselage panels have been removed. The built-in test circuits make it possible for a technician to locate a malfunction quickly. Then, a line replaceable unit (LRU) can be pulled and replaced. The LRUs are sent to the avionics shop for repair. All of this makes the location of trouble swift and easy and cuts ground time on the airplane.

Because the F–111A program is so young and most of the aircraft are RDT&E models, there are no sound figures available at Nellis on the maintenance manhours per flight-hour. The design requirement is for not more than thirty-five hours of ground work for each hour in the air, and the high utilization record set at Nellis indicates it will be easily met. In one test run, the figure was down to 12.6 hours, but this was not considered definitive. The September utilization record of 60.8T hours per aircraft, set at Nellis, is at least twice as good as the requirement, which was set in the contract at thirty flight-hours per month per aircraft.

There has been no attempt in this report to examine other versions of the F–111, programmed for the U.S. Navy, Australia, Great Britain, or the Strategic Air Command. USAF is not concerned at this point with the inferno that surrounded the selection of General Dynamics as the contractor, the virtues

of the design as opposed to that offered by the Boeing Co., or the role, if any, played by politicians when the F–111 was known, in the embryo, as the TFX. Neither have we investigated the choice of materials in the aircraft, the extent of commonality, the location of engine inlets, or the degree of competence displayed in estimating costs.

All of these subjects, and others, have been involved in the brouhaha that has been raging about this aircraft for years. The men most intimate with its performance as USAF's F–111A read the newspaper and congressional comments with astonishment. A national weekly calls the airplane a "lemon." In the Senate, a Claghorn-type speech declared it "a poor strategic bomber and an even poorer tactical fighter," a statement the pilots say is at least half wrong.

So far as USAF is concerned, the pudding now is ready for eating. So far as the crew at the table is concerned, the question is out of the kitchen and away from the cook, except for seasoning. The F–111A is a weapon system in being.

THE F–111 INDUSTRY TEAM

Prime Contractor: General Dynamics Corp., Fort Worth Div., Fort Worth, Tex.

Associate Contractor: Hughes Aircraft Co., Culver City, Calif., Phoenix missile system.

Associate Contractor: United Aircraft Corp., Pratt & Whitney Aircraft Div., East Hartford, Conn. Engines.

Subcontractor: Principal and Associate: Grumman Aircraft Engineering Corp., Bethpage, N.Y., Aft fuselage sections and F–111B assembly.

SUBCONTRACTORS: MAJOR SUBSYSTEMS

AVCO Corp., Electronics Div., Cincinnati, Ohio, Countermeasures receiving systems.

The Bendix Corp., Electrodynamics Div., North Hollywood, Calif. Servo actuator for horizontal tail, rudder, and spoilers. Navigation and Control Div., Teterboro, N.J. Air data computer.

Collins Radio Co. Cedar Rapids Div., Cedar Rapids, Iowa. Antenna coupler.

The Garrett Corp. AiResearch Manufacturing Co., Los Angeles, Calif. Air-conditioning system, engine starter (pneumatic).

General Precision, Inc. Link Group Binghampton, N.Y. Mission simulator. GPL Div. Pleasantville, N.Y. Doppler radar.

General Electric Co. Defense Electronics Div.

Aerospace Electronics Dept., Utica, N.Y. Attack radar. Defense Electronics Div. Avionics Controls Dept., Johnson City, N.Y., Flight control, lead computing optical sight set, and the optical display sight set. Missile and Space Div. Armament Dept., Burlington, Vt. Ammunition handling system.

Honeywell, Inc. Aeronautical Div. Minneapolis Minn. Low-altitude radar altimeter.

Litton Industries, Inc. Guidance and Controls Systems Div., Woodland Hills, Calif. Navigation and attack system, astrocompass.

McDonnell Douglas Corp. St. Louis, Mo. Crew module and escape system.

Motorola, Inc. Aerospace Center, Scottsdale, Ariz. X-Band transponder.

North American Aviation, Inc. Autonetics Div. Anaheim, Calif. Mark II and Mark IIB avionics.

Sanders Associates, Inc. Nashua, N.H. ECM group.

Sundstrand Corp. Sundstrand Aviation Div. Rockford, Ill. Constant speed drive engine starter (cartridge), emergency power unit.

Texas Instruments, Inc. Apparatus Div. Dallas, Tex. Terrain-following radar.

Textron, Inc. Dalmo Victor Co. Belmont, Calif. Radar homing and warning.

United Aircraft Corp. Hamilton Standard Div. Windsor Locks, Conn. Air inlet and cabin pressure equipment.

Westinghouse Electric Corp. Aerospace Electrical Div., Lima, Ohio. AC power system.

PRESIDENT JOHNSON, HOWARD SAMUELS, AND THE CHALLENGE TO AMERICAN BUSINESS

Mr. BREWSTER. Mr. President, last week at the White House, President Johnson swore into office as Under Secretary of Commerce a distinguished businessman, Mr. Howard Samuels, of New York.

Mr. Samuels is not the first businessman to serve his President and his country.

The business community has always responded—even at personal sacrifice—to the call of President Johnson and to the call of the people.

But this swearing-in ceremony has particular meaning for the business community and the country.

Howard Samuels, a success in his own right, has been asked to help to mobilize the business community for cooperation in the President's new housing and job development programs.

He has been asked to place his considerable expertise and intelligence at the service of his country, at a time when every sector in the Nation must cooperate to lift our citizens to a new and even higher standard of living.

We are now in the 82d month of continuous prosperity. That prosperity must mean more than just better incomes for our citizens. It must mean that every citizen has an equal opportunity to share in our prosperity. That is what President Johnson wants. That is what Under Secretary Samuels will help him to achieve.

I know that Congress will work with him and the President and the business community to achieve a better America for all our citizens.

I ask unanimous consent that the remarks by President Johnson at the swearing-in ceremony for Under Secretary of Commerce Howard Samuels, of New York, be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF THE PRESIDENT AT THE SWEARING-IN CEREMONY FOR HOWARD SAMUELS, THE EAST ROOM, NOVEMBER 30, 1967

Mr. Howard Samuels and family, Secretary Fowler, Mr. Justice Fortas, members of the Congress, ladies and gentlemen, and friends:

I am here this morning to hand new challenges to a man who has really made a career of challenges.

Howard Samuels has been facing up to challenges all of his life.

In the public schools of upstate New York.

In the classes of MIT.

In the Army before Pearl Harbor, when he was fighting with Patton across Europe.

Lieutenant Colonel Samuels, age 26, came back from war with an idea and with a dream. He began his own business in an abandoned old schoolhouse. The rent was $35 a month. He and his brother built a corporation from that. It is now this nation's largest producer of plastic packaging.

Howard Samuels leaves this success behind—because another and a larger challenge has brought him to his Nation's Capital.

He takes high office this morning in a department that once spoke only for business. Now it speaks to business about the real business of America—the well-being of all the American people, including the business people.

So Mr. Samuels, your President wants to challenge you—and to challenge American business—to do more to solve the stubborn problems that plague this Nation and that keep us worrying at night.

Let me mention just two of those problems in the brief time this morning:

One is the shame of America. It is the slum of America—the nameless sub-city of the poor that exists in every State. It is a sprawling hovel where 20 million Americans—10 percent of all of our people—today live in tenements, in rural shacks and tar-paper shanties.

There are nearly 6 million of these so-called homes in this, the richest land in the world. Law and decency condemn them. Yet they stand—supported by our inaction, and also supported by, I am afraid, our indifference. They stand 30 years after President Franklin Roosevelt signed our first public-housing act. They stand despite all that the last five Presidents have done to try to wipe this shame from the face and from the conscience of the wealthiest people on earth.

So much for challenge one. The second challenge is to try to hire and to train the half-a-million hardcore unemployed. That is what we are talking about—500,000 hardcore unemployed.

This is our forgotten labor force. It is an unenlisted legion, a neglected resource of a rich and productive America.

They are the last in line. They do not share in America's abundance because they are the handicapped, they are the unskilled, they are the untrained, and they are the slighted victims of indifference and of discrimination.

Some of us think and hope that all they are asking of us is a chance. We are trying as hard as we know how to give them that chance—a chance to work at a good job at a decent wage.

But we do need help. Government just cannot do it alone. We need the energy, we need the genius, we need the imagination, and we need the initiative of the businessmen of America who have built this great, free enterprise system into the most powerful economy in all the world.

Last month I asked the distinguished Secretary of Commerce, Mr. Sandy Trowbridge, to get our businessmen involved, to get them involved in hiring and training these cast-off Americans. The Secretary turned to our country's 500 largest firms and asked them for help:

Twenty-three of these 500 said they would help.

Twenty-nine said they would not help.

Eighty-five said they were interested.

But the men on the highest levels sometimes just deal with the cream of the crop. That still leaves, after Mr. Trowbridge worked these days, 70 percent for you, Mr. Samuels. They have not committed themselves. We are going to put you in the nose of the cone in the goldfish bowl and we are going to see what you do and what the 70 percent of the 500 do about helping us do something for these half-million hardcore unemployed.

I believe the businessman can become concerned, if he knows the facts. But the average businessman is, first of all, always concerned first with his own business. He is busy with his own affairs. The pity of that is a terrible, accidental callousness to the greater business of all of us—a very dangerous thing. His business is not going to ultimately be any better than all of our business.

Tomorrow morning, we will begin the 82nd consecutive month of growing prosperity in America. In less than seven years, corporate profits after taxes have increased 93 percent—almost doubled in the last seven years—corporate profits after taxes.

So I summon American business this morning, as I did yesterday at the luncheon here in the White House. I summon them in their surge of prosperity, to try to look back

at its wake: to look hard at the nameless slum city of the poor and to look hard at this forgotten labor force—and try to help the leaders of commerce join the leaders of the workers in doing something about it. Government can supplement their efforts but cannot supplant them.

Now, before we administer the oath, I must remark upon your wonderful family of eight children. I think it is right that a man who will help to run the Census Bureau should have such a large and attractive family.

So in the language of commerce, "It gives a man a piece of the action."

EQUAL OPPORTUNITY IN HOUSING—CORRESPONDENCE BETWEEN SENATOR EDWARD KENNEDY AND THE FEDERAL TRADE COMMISSION

Mr. KENNEDY of Massachusetts. Mr. President, we are all used to hearing the refrain: "If poor people showed some ambition and initiative they could escape from poverty and the slums." There are many reasons for questioning the validity and relevancy of this assertion, but in one field its absurdity is obvious and distressing. No matter how great his aspiration and ambition, neither the poor Negro-American, nor the rich one, can choose where to live. Whether he is moving from a tenement into a city high rise, or from a high rise into a suburban garden apartment; or from a garden apartment into a country split level, the color of his skin bars him from access to a large part of the housing market. No matter how secure and successful he may be, he finds himself judged not on his financial responsibility, or even his personality or the number of children he has, but rather on his pigmentation.

Can there be any justification for this throwback to slavery? Is there any rational basis for rejecting a man as a neighbor solely because of his color? I daresay no intelligent citizen can give these questions an affirmative answer, yet through ignorance and fear and prejudice the practice continues, and some people continue to defend it.

Most real estate dealers and builders and apartment owners say that they do not condone or support the practice, but that they are forced to maintain it as long as their competitors do. They say that if there were laws or regulations or other sanctions to end discrimination throughout the housing market they would gladly and voluntarily cooperate. In fact this is what happened after passage of the public accommodations title of the 1964 Civil Rights Act. Voluntary compliance was the rule and the exceptions were few and far between. With the force of congressional policy behind them, individual restaurateurs, hotel keepers, and theater operators could meet the demands of morality and conscience by opening their facilities to all, without risk that their competitors would do otherwise.

Clearly, the most logical solution in the housing field would be an equally forceful and comprehensive Federal open housing bill, ending once and for all the vicious practice of racism in real estate. Such a bill was passed in the 89th Congress by the House and received the support of a majority of the Members of the Senate. Nevertheless, as we well know, a minority of the Members of this body were able to prevent it from becoming law. A similar bill is before the Senate this year, but a similar effort to obstruct is already promised.

Mr. President, it is strange, indeed, that some of the very same people who seek to prevent the Congress from meeting its responsibility in the vital field of open housing, are also the ones who complain the loudest when as a result of repeated congressional defaults, it becomes necessary for the judicial branch or the executive branch to take strong initiatives in sensitive fields.

That phenomenon is becoming more and more apparent with regard to housing. What Congress could do and should do in one clean sweep must be done instead through piecemeal action by States and counties and cities, and by Presidential regulation and military order, and by administrative agency action. This is an expensive and time-consuming way to go about the job, and will not do the job adequately. The Executive order on housing affects only federally financed or guaranteed housing. The Defense personnel housing orders affect only neighborhoods of military bases. But until fully effective legislation is passed, or until the Supreme Court is forced to decide that the Constitution or existing laws already meet the need, the piecemeal approach must be pursued and pursued vigorously if we are to achieve as nearly as possible the constitutional goal of liberty and freedom for every American.

Last May I raised with the members of the Federal Trade Commission one opportunity for effective action within their jurisdiction.

I suggested in a letter to each Commissioner that the practice of offering in interstate markets housing which is ostensibly for sale or rent to all comers, but which in fact is closed to people of particular races or religions, constitutes deceptive advertising within the meaning of the applicable laws and rules under which the Commission operates.

The responses I received indicated that the members of the Commission agreed that this was a matter within their jurisdiction, although there was disagreement as to what the Commission's action should be. I therefore proposed a course of action consisting of the filing of a series of complaints in test cases across the country, and formally requested the Commission to follow this course.

That was in July. On September 25, I received a progress report from the Chairman of the Commission indicating that the FTC had proceeded on a staff level to develop the information necessary to determine whether complaints should be filed in a group of specific cases. The Chairman stated that the staff investigations were being conducted in the Washington, D.C., metropolitan area both because of the ease of developing evidence in this area and because the bringing of the first cases in the Nation's Capital would help to focus national attention on the principle in issue. The Chairman indicated that the Commission was prepared to take action in a matter of weeks if the investigations disclosed facts supporting the charge of deceptive advertising.

Although I have not heard from the Commission since September 25, news reports over the weekend indicated that the Commission voted last week to issue complaints against certain real estate advertisers in the District of Columbia area. There has been no confirmation of this fact from the Commission, but the persistence and similarity of reports from several sources suggests that complaints have in fact been authorized.

Mr. President, if the Commission has acted in this important field, a strong blow for freedom and equality of opportunity will be struck. If real estate ads are required to disclose that the offers they make are not open to all, the results will be immediate and widespread. In some places discriminatory advertising will be prohibited by law. In others the media will not be a party to such racism, and will not accept the advertising. In still others, builders and owners who were willing to discriminate covertly and anonymously will not do so when they have to admit it openly. And finally, in many places the pressure of public opinion and the unwillingness of many citizens to do business with offerors who discriminate will create a strong stimulus to changed policies. Of course this will not be a complete answer, but it will help significantly in many of our large metropolitan areas and in housing developments which are offered on a regional or national scale.

Today's news also brings some hope that we may achieve some help toward a solution from the judiciary if Congress again fails to act. The Supreme Court yesterday accepted for consideration a case which will test the contention that existing principles of law already bar racial discrimination in certain housing developments. My personal hope is that the 90th Congress will meet its responsibility by passing an open housing bill which will moot the case before the Supreme Court. But if we do not, then we will have to continue attacking the problem in every possible alternative way, and sooner or later the Supreme Court will have to act. For emotionalism and demagoguery cannot hide the simple fact that Negro Americans today are not free and are not equal when it comes to housing, and they and all Americans have a right to demand that this gaping hole in the facade of our democracy be filled, fully, fairly, and soon.

Mr. President, I ask unanimous consent that my correspondence on this subject with the Federal Trade Commission, and an article published in the Washington Post of December 2, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAY 8, 1967.

Hon. ———,
Commissioner, Federal Trade Commission, Washington, D.C.

DEAR COMMISSIONER ———: I would like to raise with you a matter which has become of increasing concern to me with each passing month.

It seems patently obvious that many of the apartments, homes, and parcels of real estate offered for sale or rental in interstate commerce are not in fact offered to all comers. This is especially clear in multi-state metropolitan areas such as the District of Columbia, where offerings in Maryland and Virginia suburbs which are not available to Negroes are advertised in D.C., where the majority of the population are Negroes. Of course, in other parts of the country there are restrictions based on religion or national origin rather than race.

It seems to me that, since the advertising for such homes, apartments, and real estate gives the impression that they are being offered to all comers, and since this impression is false, there would thus arise a question of misrepresentation with regard to such advertising. Citizens who might wish to avail themselves of the opportunities offered must frequently take the time, effort and expense to call, write, or visit the offeror before discovering the restrictive nature of the offer. In addition, they might be forced to undergo the embarrassment and emotional strain of being told in person or by mail or by telephone that the offer is not being made to people of their race, religion, or national origin. On the other hand, potential buyers and renters who are not members of the excluded groups, but who do not wish to deal with offerors who discriminate, may be misled by the silence of the advertising as to this material element of such offers. Moreover the media who carry such advertising, although they may have a policy against publishing offerings which are closed to readers of a particular race, religion, or national origin, have at the present no convenient means of determining whether proposed advertisements meets that standard, since there are no governmentally enforced requirements of prior disclosure even to the media.

I would be most interested in having as soon as possible your thoughts as to whether the Federal Trade Commission might have *within its* powers and jurisdiction, some means for correcting this situation and what procedural steps would be necessary for the Commission to act in this area.

My own preliminary conclusions would be that the inherent misrepresentations would alone bring the problem within your purview, that as a practical matter existing practices do have substantial negative effects on the volume, nature, and competitiveness of the interstate markets for residential premises and sites, and that a disclosure policy would have both direct and indirect effects tending to improve the flow and competition in these markets.

I am taking the liberty of sending an identical letter to each of the Commissioners so that I may have the benefit of the suggestions of each of you. Since this is a matter of which I am placing some priority, I look forward to your early reply.

With best regards,

Sincerely,

EDWARD M. KENNEDY.

FEDERAL TRADE COMMISSION,
Washington, D.C., May 12, 1967.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: Thank you very much for your letter of May 8th. I agree 100% with everything you say. The Federal Trade Commission has ample authority to take effective remedial action with regard to this problem, at least in the District of Columbia metropolitan area. For several years now, I have been urging the Commission—unsuccessfully thus far—to take action. However, I am hopeful that there will soon be a majority favoring the issuance of complaints directed at this kind of unfair and deceptive advertising. For that reason, I especially welcome your expression of views to each Commissioner.

With best wishes,

Sincerely,

PHILIP ELMAN.

FEDERAL TRADE COMMISSION,
Washington, D.C., May 12, 1967.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: This is in response to your letter of May 8, 1967, in which you inquired concerning the powers and jurisdiction of the Federal Trade Commission to deal with the representations in connection with the renting of real estate in the District of Columbia, Maryland, and Virginia. It is said that there is some thought that some of the representations involved are not completely accurate in that they do not disclose that the property being offered for rent is not available to Negroes.

The question of whether the Federal Trade Commission might have within its powers and jurisdiction some means of dealing with this situation and what procedural steps would be necessary for the Commission to act in this area as well as whether it would be appropriate for the Commission to inject itself into the larger question involving civil rights are questions which have troubled the Federal Trade Commission for some time.

There have been arguments pro and con that even if the Commission should be considered as having power and jurisdiction over any of these matters, then because of the larger question of jurisdiction over civil rights problems generally, it should consider carefully whether anything it would do in this area would interfere with or prejudice any possible, contemplated or planned action by the Attorney General or other officials of government under laws other than the Federal Trade Commission Act. Also, the question has been asked whether the Commission, by injecting itself into any aspect of this matter through any attempt to invoke provisions of the Federal Trade Commission Act would thereby be treading upon or attempting to forecast the views of Congress regarding the appropriate public policy applicable to the open housing issue.

In view of all of these troublesome and unresolved questions, I have proposed that the Commission conduct a public hearing on these questions in which all interested persons would be provided with an opportunity to supply the Commission with data, views and arguments relevant to these questions. My proposal did not find favor with a majority of the Commission; therefore, it was not approved. It is my thought that such a public hearing would provide an opportunity for the Commission to explore questions going to the powers and jurisdiction of the Commission as well as means available to the Commission to deal with the situation to which you have referred. Also, such a public hearing would provide an opportunity to develop information about the public interest in the Commission doing something about the problem. It is clear that in doing what I have suggested we would have been able to answer a number of the questions which you have propounded in your letter. As matters stand now, I doubt that we have any conclusive answer on either the facts, the law or the public policy which would be acceptable to a majority of the Commission as a basis for a decision on what course of action should be taken by the Commission.

I trust that these comments will be found by you to be responsive to the request you have made of me.

With best wishes and warm personal regards, I am,

Sincerely,

EVERETTE MACINTYRE,
Commissioner.

FEDERAL TRADE COMMISSION,
Washington, D.C., May 24, 1967.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: This is in response to your letter of May 8 regarding rental and sale advertising of homes and apartments. I am in complete agreement with you that an advertisement may be materially deceptive if those responding to it are subjected to conditions not set forth in the advertisement. I am further of the opinion that advertising of this kind may be a violation of Section 5 of the Federal Trade Commission Act.

You ask whether the Federal Trade Commission can correct this situation and what procedural steps are available. In the Washington area, which is essentially an interstate metropolis, there is no question that the Federal Trade Commission has the jurisdiction to proceed against deceptive advertising. However, since real estate dealings of the kind involved are largely local transactions, there is a question whether the Commission can act effectively throughout most of the United States. Assuming a basis for federal jurisdiction, the procedural steps open to the Commission after informing itself of the nature and dimension of the problem are either the adjudication of particular cases after issuance of complaint or a more comprehensive approach through rule making.

You will be interested to know that the Commission has undertaken an investigation of housing advertising in the Washington metropolitan area as an aid in determining what course can best be pursued by the Commission in this matter, including the issuance of complaints.

I am informed that this investigation has been completed and that the staff's report will shortly be submitted to the Commission.

Sincerely yours,

JOHN R. REILLY,
Commissioner.

FEDERAL TRADE COMMISSION,
Washington, D.C., May 16, 1967.

Hon. EDWARD M. KENNEDY,
Committee on the Judiciary, U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: It was very good to get your letter of May 8, 1967 and to know of your concern about the advertising of commercial housing in the metropolitan areas and in the District of Columbia, a concern which we all share.

The Federal Trade Commission has been concerned with this problem officially now for about a year. We have started an investigation of just precisely the type of advertising to which you refer in your letter. I am enclosing copies of our correspondence with CORE, which was the first complainant in this matter. This correspondence sets out the limits of our jurisdiction in this situation. We have also been in touch with the Corporation Counsel's office in the District of Columbia and with various other organizations in the metropolitan area to ascertain their experience. I personally have discussed this matter with Sterling Tucker of the Urban League and have asked his organization to forward to us any complaints of which they are aware.

I do not know whether you personally receive complaints in this area, but if you do I hope that you will forward them to us.

With all good wishes.

Yours very sincerely,

MARY GARDINER JONES,
Commissioner.

FEDERAL TRADE COMMISSION,
Washington, D.C., May 17, 1967.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: Your letter of May 8, 1967

reached my office while I was out of the city. I returned on Monday to a Commission meeting with representatives of the Grocery Manufacturers Association. This meeting ran into the afternoon, when a previously announced press conference was held, dealing with the opening of a laboratory here in the Commission building to be used to test the tar and nicotine contents of cigarettes. Immediately thereafter I had to depart for New Orleans to meet a speaking commitment on May 16, and I have thus been unable to answer your inquiry until today.

In your letter you call attention to the fact that apartments, homes and parcels of real estate are advertised and offered for sale in interstate commerce—especially in multi-state metropolitan areas such as the District of Columbia, Maryland and Virginia—which are not available to Negroes and that in other parts of the country similar restrictions are based on religion and national origin rather than race. You further point out that this raises a question of misrepresentation, and that citizens who might wish to avail themselves of these advertised opportunities frequently take the time and effort to call, write or visit the offeror before discovering the restrictive nature of the offer. You point out the embarrassment and emotional strain that come to such people, as well as the fact that potential buyers and renters who are not members of the excluded groups, but who do not wish to deal with offerors who discriminate, may be misled. You ask my individual thoughts as to whether the Federal Trade Commission has within its powers and jurisdiction some means for correcting this situation.

In 1938 Section 5(a)(1) of the Federal Trade Commission Act was amended by adding the following words, "* * * unfair or deceptive acts or practices in commerce" are hereby declared unlawful. Congress thereby substantially increased the powers and duties of the Federal Trade Commission. Quite frankly, the words "unfair or deceptive acts" are extremely broad and were so intended by the Congress so that the Federal Trade Commission would be free to develop them into a body of law under the recognized doctrine of inclusion and exclusion. It is my opinion that under a strict application of the above language the practices you describe in your letter are highly questionable.

This opinion on my part, however, does not resolve the matter completely. You will recall that before the Federal Trade Commission may proceed against an unfair and deceptive act or practice, the act or practice must be "in commerce." Historically, the Commission has restricted itself, wisely, in my opinion, to proceeding only against acts or practices which resulted in the movement of goods or a sale in commerce. It is agreed by the present Commission that the Commission has within its authority power to proceed against advertising, as such, which is disseminated in commerce, regardless of whether such advertising results in the sale of goods or articles in commerce. The present Commission, however, has not deviated from the long-standing policy of not moving into this area simply because, as a practical matter, it could not effectively process the avalanche of complaints that might be expected to result from a change in the policy. I think you can understand why this might be the expected result. For instance, there is hardly a newspaper or magazine which does not in one manner or another circulate across state lines. A change in Commission policy would mean that practically every practice that may be engaged in by all local businessmen in America which might appear questionable under the broad provisions of Section 5 of the Federal Trade Commission Act would be called to the Commission's attention with a demand for action against it.

The Federal Trade Commission now has approximately 1,150 employees, with about fourteen million dollars annually in appropriated funds, to carry out the broadest mandate given to any agency of government. Stated simply, our obligation is to see to it that business remains fair and that the consumer is not deceived. A reading of the Congressional history of the Act, however, and study of the judicial interpretations under it will lead any reader to the conclusion that the Congress only contemplated that this agency would act in the field of trade and commerce, and not in the general area of civil rights.

I think it would be unwise for the Commission, acting on a case-by-case basis, to venture into this field. I agree with you that the housing problem must be resolved. I would suggest, however, that it should be resolved by the Administration, by and with the help of the Congress, not by an administrative agency created to deal with problems associated with interstate trade and commerce.

As you know, actions of the Federal Trade Commission are taken by a majority of a quorum of its membership. With all five members of the Commission participating, this means by an affirmative vote of three members. Should this matter come to the table, I certainly would think it unwise for the Commission to proceed on a case-by-case basis and would so vote. If it should be the will of a majority of the Commission to act in the field, I would then counsel and urge that the Commission proceed on an across-the-board basis, possibly looking to the issuance of a trade regulation rule. This would be the fairer approach and would afford the Commission a record basis upon which it could determine whether the practices involved are in general unfair or deceptive and what guidelines or rules, if any, the Commission might issue in an attempt to help resolve the problem.

I have appeared many times before many committees of the Congress where I have heard the expression that "the Commission is an arm of the Congress"—an agency created to carry out the expressed will of the Congress. I do not believe it is the will of the Congress for the Commission to enter the civil rights field with respect to the advertising of housing. This, of course, does not mean that we should not enter the field when the practice complained of, including the advertising, falls clearly within the existing policy of the Commission. I have attempted here to distinguish the two concepts.

To summarize, in part: I do not think the Commission should enter any new field where it could be reasonably anticipated that as a result it would receive an avalanche of complaints, unless it is first satisfied that it is properly manned to follow through. If the Commission should announce its intention to undertake to resolve the advertising practices with respect to housing, I am convinced we should be inundated with thousands of complaints. We simply could not handle them unless funds had been previously appropriated. If the Congress or the Administration wishes the Commission to enter this area, it should first arrange to have appropriated to us the funds necessary to do an adequate job.

I hope my frank answer to the questions you have asked in your letter is satisfactory. If you have any further questions, I will be glad to clarify any ambiguities or to make myself available to you personally at your convenience.

With kindest personal regards, I am,

Sincerely,

PAUL RAND DIXON,
Chairman.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
July 7, 1967.

HON. PAUL RAND DIXON,
Chairman, Federal Trade Commission, Washington, D.C.

DEAR MR. CHAIRMAN: I want to thank you and the other members of the Federal Trade Commission for your frank and helpful replies to my letter of May 8, 1967. In that letter I raised the question of whether real estate advertising is not inherently deceptive and unfair when the offer appears to be addressed to the public generally but is actually open only to a limited segment of the public, and the premises advertised are in fact not available to many people because of their race, religion, or national origin. I suggested that such deceptive and unfair advertising in interstate commerce has a potential detrimental effect on such commerce, especially in multi-state metropolitan areas, and requested the views of each of you on the appropriateness of F.T.C. action in this field.

Your replies make clear that: the statutory basis for F.T.C. jurisdiction in this area is ample and adequate; the practices described, where proved to exist, would violate the prohibitions of the Federal Trade Commission Act; a majority, and perhaps all, of the members of the Commission favor initiation of some type of Commission action to remedy this problem.

Only two Commissioners indicated reservations on the issue. While their points appear to me to be peripheral to the central problem, the answers to the questions they raise do in fact help to emphasize the utility of F.T.C. action. Their concerns were that action by the F.T.C. might interfere with activities in the housing field by Executive Departments or by the Congress; that entry into the field by the Commission might entail administrative burdens which the Commission does not now have the staff or funds to meet; and that action on a civil rights-related problem might bring the Commission outside its central statutory assignment to matters of trade and commerce.

Very briefly addressing each of these suggestions, I would point out that:

F.T.C. initiatives would supplement and support, rather than interfere or conflict with, Executive Branch policies and programs. The President's Executive Order on Housing, the regulations of the Department of Housing and Urban Development, and the recent housing orders of the Secretary of Defense are examples of Executive policies which F.T.C. action would complement. There is every reason to believe that the responsible officials in the Executive Branch would welcome and encourage F.T.C. initiatives which might touch upon the housing field.

The pendency in Congress of a comprehensive fair housing bill should not and cannot justify failure of other agencies of government to undertake more limited entry into the housing field when required to do so in pursuit of their own primary functions. Again the examples in the Executive Branch, and particularly Secretary McNamara's order declaring certain discriminatory housing in the D.C. area off limits to military personnel, provide clear precedent. Moreover, even when Congress enacts such legislation there will probably remain gaps where agency action will still be necessary.

Representatives and members of the real estate industry have repeatedly emphasized that, while they may be economically unable to take individual initiatives towards fair housing, there would be widespread voluntary compliance with any official decisions in this field applicable to all.

This was in fact the result in the most analogous area, public accommodations. Thus, once the F.T.C.'s interpretation of the law is made clear, the level of disobedience and the necessity for enforcement should be minimal. In any event the possibility of needing to go to Congress for more funds and staff if a new burden arises from meeting a statutory responsibility is not reason to decline to meet that responsibility.

The clear impact of deceptive real estate advertising on commerce is not negated or

diluted by the fact that such violations of the F.T.C. Act may also involve discriminatory real estate practices. Indeed, while it is the protection of commerce which provides jurisdiction and standards for the Commission, and by-product benefits to the public in achieving equality of citizenship opportunities create a special public interest in speedy and firm Commission action.

The principal open question seems to be that of the most appropriate form of Commission action at this point. Again, in my opinion, a course of action which achieves the speediest and most effective results would best serve the public interest. The Commissioner's letters indicate that the jurisdictional questions and public interests in a remedy are not open to serious challenge. Thus it would seem that hearings to explore these preliminary questions might only serve to delay effective action. The present necessity is for receiving evidence on specific cases and for fashioning practicable remedies in the light of these cases.

In my judgment, the appropriate course would be for the Commission to proceed immediately to file complaints in a cross-section of test cases throughout the country.

It appears from the replies of some of the Commissioners that the staff is already prepared to present for action complaints pertaining to the District of Columbia metropolitan area. I am confident that in a matter of days or weeks each of your eleven regional offices would be able to develop other suitable test cases in multi-state metropolitan areas in their regions. With such a group of test cases the Commission could develop a firm factual foundation for any action which it found to be required by governing law. Its articulation of the controlling standards in these cases would serve as guidelines to the industry and to the public.

In accordance with Section 2.1 of the Commission's Procedures and Rules of Practice, I therefore suggest and request that investigations be initiated immediately with a view towards early issuance of complaints directed to the allegedly unlawful practices which have been described in this and my prior letter.

Misleading advertising of this nature causes great inconvenience and heartbreak to many Americans in their search for homes. At the same time it adds to the suspicion and distrust which impedes harmony among citizens of different races, religions, and national origins. The blight of discrimination has been attacked successfully in many areas of national life, but housing is one of the key remaining problems. I feel that the Federal Trade Commission can, by enforcing in the housing field the Congressional prohibition against misleading advertising, take a significant step towards assuring the right of all citizens to find homes without subjecting themselves to discrimination.

Again my thanks for the continuing attention of yourself and the other Commissioners to this important matter.

Sincerely,

EDWARD M. KENNEDY.

FEDERAL TRADE COMMISSION,
Washington, D.C., September 25, 1967.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: Since receiving your letter of July 7, the Commission has given careful consideration to your request for immediate action attacking as an unfair and deceptive practice the advertising of housing accommodations which fails to disclose that such accommodations are not in fact available to many people because of their race, religion or national origin.

Upon receipt of your letter the Commission directed its staff to proceed immediately to attempt to develop facts permitting the issuance of not less than four complaints in the District of Columbia area on the subject of deceptive advertising of housing through failure to disclose material facts concerning those to whom the advertiser will rent or sell. The staff was further directed to conduct these investigations expeditiously and if the facts so warrant to draft and submit complaints to the Commission as quickly as possible. The Commission reserved for further consideration the question of whether the complaints should cover the failure to disclose any or all restrictive conditions or only undisclosed restrictions as to race, religion or national origin. In the event the facts developed support complaints along either of these lines the charge would be that this failure to disclose such a material fact is an unfair and deceptive practice within the meaning of Section 5 of the Federal Trade Commission Act.

These investigations are being conducted in the Washington, D.C., metropolitan area where it is believed they may be more speedily concluded because of the background evidence already developed in this area. Furthermore, it appeared most appropriate to bring any possible cases in the nation's capitol and there focus attention on the principle in issue.

You understand, of course, that complaints may be filed only if the investigations disclose facts which will support the charges to be made. The investigations are now being concluded and the results will be reported to the Commission very soon. The Commission's action thereon may be expected within the next two or three weeks.

With kindest regards, I am,

Sincerely yours,

PAUL RAND DIXON,
Chairman.

[From the Washington (D.C.) Post, Dec. 2, 1967]

FTC TO ACT ON REALTY ADS

(By Robert F. Greene)

The Federal Trade Commission voted last Wednesday to file complaints of deceptive advertising against a number of Washington area businessmen who have failed to disclose that the land and housing they offer for sale or rent is not available to all persons, regardless of race, religion or national origin.

The FTC made the decision in a 3-to-2 vote, with Commission Chairman Paul Rand Dixon and A. Everett MacIntyre dissenting, The Washington Post learned.

Last night Dixon declined comment on the decision "unless and until," he said, "the Commission makes a public statement."

Under Commission procedures, individuals or firms named in complaints are given an opportunity privately to comply with FTC orders before being cited in a formal public complaint that might result in a hearing or a cease-and-desist order.

Last Wednesday's action came after an FTC staff investigation discussed in a letter Dixon wrote Sept. 25 to Sen. Edward M. Kennedy (D-Mass.). Kennedy last July had pressed the Commission to declare real estate advertising that conceals discrimination to be deceptive and subject to prosecution.

Kennedy declared at the time that it is "patently obvious" that some properties are advertised without hint that certain applicants will be turned away. Kennedy said the practice was especially prevalent in multi-state metropolitan areas such as this one.

Dixon wrote that after receiving a letter from Kennedy the Commission staff was told to "attempt to develop facts permitting the issuance of not less than four complaints in the District of Columbia area on the subject of deceptive advertising . . ."

If the investigations warranted, Dixon wrote, the charge would be that deceptive advertising was a violation of Section 5 of the Federal Trade Commission Act.

Dixon implied that the Washington area was picked as a target for the investigation because "it is believed (the investigations there) may be more speedily concluded because of the background evidence already developed . . ."

"Furthermore," the Chairman wrote, "it appeared most appropriate to bring any possible cases in the Nation's Capital and there focus attention on the principal issue."

THE GOLD STANDARD

Mr. BREWSTER. Mr. President, whenever the subject of the gold standard is raised as a topic of conversation, invariably a great deal of misinformation is presented. The Washington Post on Sunday, December 3, 1967, published an article entitled, "It's Just a Lot of Bullion," by Mr. Harvey H. Segal, that clearly sets forth the facts concerning the value of gold and the role played by the International Monetary Fund.

In light of the current discussions about our balance-of-payments deficit and the recent devaluation of the pound sterling, I believe that Senators will find the article most interesting and informative.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IT'S JUST A LOT OF BULLION

(By Harvey H. Segal)

The gold rush—frantic buying of gold in the expectation that its price would rise as the devaluation of the dollar followed that of the pound—has all but subsided on markets all over the world. But the fundamental problems of gold and its relationship to the dollar are unresolved, and they will surface again in the foreseeable future, undermining confidence and subjecting the international monetary system to new shocks.

Modern history records a progressive weakening of the link between gold and money, a part of the general shift from commodities—gold, silver and copper—to more sophisticated forms of representative money such as bank notes and checking account deposits.

Before 1914 there was a close and obvious link, virtually an identity, between gold and money. Gold coins formed an important part of the national money supplies. Bank notes in advanced countries were freely convertible to gold and their issues tended to be limited by the gold reserves held in national treasuries and central banks.

GOLD EXPANDS

Inflows of gold resulting from export surpluses or investment by foreigners permitted an expansion of the money supply with subsequent rises in the levels of employment and prices. Gold losses tended to depress employment and price levels.

Under that classical gold standard, which France's President de Gaulle wants to revive, gold was the principal monetary reserve, the medium for settling debts among nations. And the banks—both central banks and private banks—maintained fixed exchange rates by converting national currencies into gold and gold into national currencies.

Because of inflation and other disturbances that followed in the wake of World War I, most countries in the 1920s began to supplement their gold reserves with holdings of widely acceptable foreign currencies, principally sterling. The practice of holding foreign exchange as reserves gave rise to the

"gold exchange standard." Under it the link between the growth of domestic money supplies and gold reserves was greatly loosened. But general convertibility between gold and national currencies was the rule.

The Great Depression sounded the death knell of gold convertibility, at least so far as ordinary citizens were concerned. After 1930, there was a headlong abandonment of domestic convertibility as countries sought to avert the sharp monetary contractions and price deflations that would have followed from maintaining the old parities between gold and and domestic currencies. In some instances, notably in this country, there was severe deflation in spite of the devaluation, that is, the reduction of the gold content of the currency unit and the correlative increase in the price of gold.

During the 1930s, domestic gold stocks were recommended by many national governments and used for official transactions, especially to intervene in the foreign exchange markets through exchange stabilization funds. The object of those operations was to peg or fix exchange rates and by so doing to prevent a country from gaining a competitive edge in international trade by virtue of a fall in the exchange value of its currency.

United States citizens were compelled to surrender all gold coin and bullion in 1933, and under the Gold Reserve Act of 1934, the dollar was officially devaluated. Its gold content was reduced from 25.8 grains of gold (.9 fine) to a little less than 15.3 grains. That action raised the official price—the price at which the Treasury is willing to buy and sell gold—from $20.67 to $35 per troy ounce, where it has remained ever since.

A new stage in the evolution of gold began with the operation of the International Monetary Fund in 1946, a year when the economies of Europe were prostrate as a result of World War II. The architects of the IMF sought to avert the beggar-my-neighbor policies—the restrictions on imports and the competitive devaluations that drastically reduced the volume of international trade in the 1930s. The rules which they laid down and the dominant position of the United States economy in a war-torn world led to the establishment of a dollar-gold exchange standard.

Under the IMF Agreement, member countries, which ultimately included all those outside the Communist bloc except Switzerland, were given two options.

They could undertake, through official intervention in the foreign exchange markets, to maintain the par value of the currency, as expressed in terms of dollars, within margins of plus and minus 1 per cent. Or they could undertake to buy and sell gold freely, conducting the transactions within margins of plus and minus 1 per cent of the gold par value of their currencies. In the case of the United States, that would be between $34.65 and $35.35 an ounce.

The only country which opted to buy and sell gold freely was the United States, and the reason is not hard to uncover. We then held more than 70 per cent of the non-Communist world's stock of monetary gold and the dollar was virtually the only currency that commanded the food and industrial materials needed for economic reconstruction. As a result, the world was placed on a dollar-gold standard. The dollar was pegged to gold and all other currencies were pegged to the dollar.

In the course of the postwar reconstruction, the United States acted as the world's banker. Through the Marshall Plan, the programs to aid underdeveloped countries and through private investment, nearly $200 billion went overseas in the shape of loans, grants and equity purchases. The dollar became the vehicle by which most of the world's international trade was transacted and it also became the most important reserve currency.

Of $71 billion in official monetary reserves—gold, foreign exchange and IMF credit—reported last June, dollars accounted for more than $16.3 billion, or 23 per cent. Sterling, the other reserve currency, comprised less than 9 per cent.

PERSISTENT DEFICITS

Since 1948 the United States has incurred persistent balance-of-payments deficits because it spends, lends, gives away and invests more in foreign countries than it receives from them. Had the foreign recipients of payments from the United States been willing to hold dollars without limit, there would be no gold convertibility problem. But that is hardly the case.

A few years ago the Johnson Administration, in one of those fits of delusion to which public relations men are susceptible, coined the slogan "The dollar is as good as gold!" But foreign central bankers, whose institutions ultimately receive surplus dollars from private banks, don't believe it.

Partly through fear of devaluation, partly through a desire to impose a balance-of-payments discipline on this country and partly for purely political reasons, as in the case of France, other governments have been steadily buying Treasury gold with their dollars.

In 1949, this country's gold stock reached a peak of nearly $24.6 billion. Today, it is down to less than $12.5 billion. And the outstanding liabilities against that reserve, the dollars in the hands of foreign central banks and private businesses, amount to some $31 billion. Western European gold holdings gained at the expense of the United States. In 1958, Western Europe held only $9.2 billion, or less than 24 per cent of the total, but by mid-1967 its holdings had risen to $19.1 billion, more than 47 per cent of the non-Communist world total of $40.5 billion.

Can the dilemma of dollar-gold convertibility be solved without precipitating a great panic? Yes, but it is necessary to separate the spurious solutions from those which are really viable.

If the supply of monetary gold could be greatly expanded and somehow channeled to Ft. Knox, our troubles would be over. But that golden dream will never become a reality. Because of the fixed price and the squeeze on South African mining profits, gold production is growing very slowly. Moreover, private absorption, the large industrial demand and the smaller demands of hoarders has diminished the stock of monetary gold since 1965.

DE GAULLE AND HISTORY

President de Gaulle would solve the problem by doubling the dollar price of gold and reviving the pre-1914 gold standard by eliminating foreign exchange—that is, dollars—as an international monetary reserve.

Domestic money supplies and levels of prices, income and employment would be determined by swings in the balance-of-payments and movements of gold. Few authorities, in France or elsewhere, are willing to set the clock back in that fashion.

Is a solution offered by the plan for creating "paper gold"—Special Drawing Rights—that was just adopted at the Rio de Janeiro meeting of the IMF? The answer is that the SDR scheme, while it would provide for the creation of reserves, affords no specific protection to the United States gold stock. None of the countries which want to exchange dollars for gold would be obliged to accept SDRs.

Assuming that the balance-of-payments deficits continue, the United States—after freeing the $10 billion of gold that is held as a "cover" against Federal Reserve notes—could let the gold stock run out. Indeed, some economists suggest that we announce to the world that once it is gone, we will never agree to buy it back at $35 an ounce.

But taken alone, that might be an empty threat so long as the U.S. balance of payments deficits continue. Moreover, every dollar of gold that the United States loses reduces the world's monetary reserves by a dollar. When the French or the Spanish convert, they substitute gold for dollars in their reserves. But there is no substitution in the case of the United States whose reserves are held in gold.

But suppose that the gold-dollar link were severed? Suppose the United States refused to buy and sell gold freely and opted—as it can under the IMF rules—only to support the dollar in our foreign exchange markets?

Other countries would have to decide whether to peg the dollar rates in their foreign exchange markets or permit them to fluctuate, either freely or within limits. Then the task of deciding what role gold is to play in the international monetary system could be assigned to the IMF, the only body capable of providing a meaningful solution.

ABM: THE DYNAMICS OF A NATIONAL DECISION

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD the text of my remarks at New York University on November 6, 1967. I delivered these remarks as the opening lecture of this year's Moskowitz Lecture Series. I consider it both an honor and a pleasure to have been asked to initiate the lecture series this year. Dr. Charles J. Hitch, vice president of the University of California, and Dr. Arthur F. Burns, John Bates Clark, professor of Economics at Columbia University and former Chairman of President Eisenhower's Council of Economic Advisers, also participated in the Moskowitz Lecture Series this year.

The Charles C. Moskowitz Lectures were initiated at New York University in 1961. "The Defense Sector and the American Economy" was chosen as the overall theme of the lectures this year.

In view of the gratifying reception accorded to my speech, entitled "ABM: The Dynamics of a National Decision," I thought it would be useful to make it easily available to those of my colleagues who have shown a special interest in the ABM question, which continues to weigh so heavily before our Nation.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

ABM: THE DYNAMICS OF A NATIONAL DECISION

(Remarks of Senator JACOB K. JAVITS, at New York University, November 6, 1967)

On September 18, in a truly remarkable speech, Defense Secretary McNamara announced the Administration's decision to deploy a "thin" anti-ballistic missile defense against a potential threat from Communist China. This decision was one of the most complex, and portentous in its ramifications, of any that has been made in the past decade. The decision has implications which impinge, directly or indirectly, on every important aspect of our national life. A study of the dynamics of this decision is very instructive.

First I wish to comment on what I consider to be the inadequacy of the national debate which preceded the ABM decision. Ostensibly, one might attribute the inadequacies of the debate to the complexity of the technical considerations involved in an antiballistic missile system. There is no doubt that most Americans are intimidated by the language of science and technology.

However, as I followed, and later reviewed

the ABM debate, I was struck by the fact that there was relatively little dispute over purely technical questions. By contrast, however, there was very earnest dispute over a wide spectrum of the most fundamental policy considerations which were involved in the ABM decision.

While pressures were exerted from many quarters during the ABM debate, it is clear that the decision-making process was throughout dominated by Secretary McNamara. Indeed, we owe him a debt of national gratitude for having forced a shift in the focus of the ABM debate away from essentially technical considerations and for having forcefully brought to public attention the fundamental policy considerations involved in the ABM decision.

There were pressures from many quarters during the ABM debate. One might assume that many of these pressures came from what is called the "military-industrial complex." After all, there are, potentially at least, tens of billions of dollars worth of contracts involved in building an ABM system. However, I have not discovered any discernible efforts by the great defense contracting corporations to influence the ABM debate or its outcome. This is not always true of national debates and decisions on defense questions, as you all know.

Having made that statement, I wish to modify it in one respect. It was President Eisenhower, in his farewell address to the nation, who brought to public attention the dangers posed by the "military-industrial complex". As President Eisenhower used the term, he was talking about something much more expansive and ramified than the narrow world of defense-contractor lobbyists who abound in Washington and who have come to be thought of in the public mind as being the "military-industrial complex".

In the wider sense that President Eisenhower used the phrase—to include entrenched elements in the military establishment itself and in its vast dependent intellectual establishment sustained by government contract—the "military-industrial complex" was active in the ABM debate and did seek manfully to determine its outcome. There is nothing improper about this. In fact, that is just the plain duty of the Joint Chiefs of Staff.

I spoke earlier of the technical complexity of an ABM system, and of how this tends to inhibit participation in debate by those who do not have a technical background. I think that this is a very real danger.

In his farewell address President Eisenhower also warned of the ". . . danger that public policy could itself become the captive of a scientific-technological elite." Largely because of Secretary McNamara's alertness and zeal, this did not happen in the present case of the ABM decision. The danger was definitely present, however, and will be present again in future decisions on the ABM system. I will give you a very graphic example.

Dr. Harold M. Agnew, head of the Weapons Division of the AEC's Los Alamos Scientific Laboratory, made a speech to the Air Force Association on March 16, in San Francisco. Dr. Agnew's speech is an open attack on Secretary McNamara's general conduct and specifically of his views on the ABM question. It is a pure example of the expression of the view of the "scientific-technological elite" which President Eisenhower warned us of, and I commend to you a study of its full text. For illustrative purposes, I will just quote one sentence. After taking Secretary McNamara to task for his entire strategic philosophy and his opposition to a Soviet-oriented ABM system, Dr. Agnew says:

"I believe the lack of true understanding of science and technology of many of our policy makers, and what I consider the substitution of wishful thinking, is very dangerous, and could become more and more serious."

In my judgment, Dr. Agnew's knowledge of science and technology is most useful and essential to us. The problem is the tendency of this elite to get out of their field, to think they have equal expertise and authority on broad matters of public policy. And most troublesome is their recurring efforts to have basic policy questions decided on the basis of technological factors where they are expert but which are inadequate criteria for judging basic questions of national goals and values.

I would like to turn now to some of the differences between Secretary McNamara and the Joint Chiefs of Staff which emerged in the course of the ABM debate. The Joint Chiefs understood their role in this debate. But a close study of the record shows that some fundamental differences exist between the Secretary of Defense and the Joint Chiefs of Staff with regard to our relationship to the Soviet Union. Secretary McNamara believes that it is both possible and essential to achieve an understanding with the Soviets to stabilize the "balance of terror" which keeps the peace. He is passionately concerned over avoiding a new round of the arms race, and believes that accurate communication of intention is a crucial factor. I quote a brief passage of his San Francisco speech as example:

"They could not read our intentions with any greater accuracy than we could read theirs. And thus the result has been that we have both built up our forces to a point that far exceeds a credible second-strike capability against the forces we each started with."

The alternative which he poses to an understanding on strategic weapons is "both the Soviets and ourselves would be forced to continue on a foolish and reckless course . . . The time has come for us both to realize that, and to act reasonably. It is clearly in our mutual interest to do so."

The approach of the Joint Chiefs is quite different. Their view, as reflected in General Wheeler's statement to Congress, is based on the traditional concept of an adversary relationship with the Soviet Union and contrasts sharply with the innovative thinking of McNamara. An illustrative example is the following quote from General Wheeler's statement:

"We do not pretend to be able to predict with certainty just how the Soviets will react. We do know from experience the high price they must pay to overcome a deployed U.S. ABM system."

The record also shows that the civilian Defense Secretary and the uniformed Joint Chiefs have very different assessments of the diplomatic leverage provided by nuclear weapons. Secretary McNamara says:

"Unlike any other era in military history, today a substantial numerical superiority of weapons does not effectively translate into political control, or diplomatic leverage."

General Wheeler has a quite different view:

". . . at the time of Cuba, the strategic nuclear balance was such that the Soviets did not have an exploitable capability, because of our vastly superior nuclear strength. And to bring this forward into the present context, it's also the view of the Joint Chiefs that regardless of anyone's views about the situation in Vietnam, we think it quite clear that we would have had even more hesitation in deploying our forces there, had the strategic nuclear balance not been in our favor."

I think it would be instructive at this point to juxtapose another set of quotes. The question at issue involves judgments as to the allocation of resources. While the initial cost of our "thin" ABM defense will be around $4 billion, it is common knowledge that further refinements could lead to expenditures of at least $40 to $50 billion for a "heavy" defense system. Secretary McNamara's view is succinct:

"I know of nothing we could do today that would waste more of our resources or add more to our risks."

By way of contrast, the Chairman of the House Armed Services Committee expressed the following view:

"We are an affluent nation . . . we are now right at $750 billion GNP; and responsible people tell us it is headed for a trillion. So we can afford it. Why not have the two of them, and keep the Soviets off balance . . .?"

The most shockingly neglected aspect of the ABM debate has been what is ultimately the basic issue—the allocation of national resources. The magitude of potential costs is very great—$50 billion, and a lot more if a civilian fall-out shelter program were added on. Expenditures of this order of magnitude could have profound warping effects on the total pattern of our national life. It is essential that public men, both in and out of government, join the continuing debate over the need and justification for an anti-ballistic missile defense. Now is the time when we need the views and judgments of our nation's best minds. Later, when we might be irrevocably tied to the ABM roller coaster, their post-mortem dissent will be of little value.

If there is any lesson we should have learned from our Vietnam experience it is the danger of not taking a long look down the road ahead before we commit ourselves to something. In Vietnam, initial small expenditures and periodic increments that were modest at first have now snowballed into a $30 billion per year affair. We find ourselves faced with a high cost in human life and misery and inflationary threats, while our urgent urban needs are not adequately met. The lessons of Vietnam in this regard are applicable to the ABM debate and I repeat my earnest exhortation that this whole matter be given the closest scrutiny *now* by the men whose views are respected in all areas of national endeavor.

Decisions regarding national security are perhaps the most difficult of all decisions. We live in a very complicated and dangerous world. An atmosphere of insecurity prevails everywhere. But there is no such thing as absolute security, and security certainly is not solely or even primarily a question of weapons systems. Maximum security is derived from the optimum balance and quality of national life. Secretary McNamara had some pertinent things to say in this regard in a speech he gave in Montreal in May of 1966:

"A nation can reach the point at which it does not buy more security for itself simply by buying more military hardware—we are at that point. The decisive factor for a powerful nation—already adequately armed—is the character of its relationships with the world."

At this point I cannot resist quoting the opposing view of Dr. Agnew, the Los Alamos Weapons Division chief:

"I would argue that there are few nations whom we should worry about as far as world opinion is concerned. These are only the nations with whom we are engaged in competition and who may have the military and economic strength to materially affect what we are doing."

I think the important point is that all of us have a real competence and a real contribution to make when the broad questions of national security are involved. The weapons cultists notwithstanding, the quality of our schools, the physical and mental health of our population, the social justice barometers of our big cities—are all factors which determine our national security.

While most of the ABM debate has been concerned with our relations with the Soviet Union, the ABM system finally decided on is oriented against Communist China. In his San Francisco speech McNamara said there

were "marginal grounds" for concluding that the deployment of a China-oriented system would be "prudent".

This is neither a very enthusiastic nor a very convincing line of argument and the suspicion persists that the decision to proceed with a "thin" ABM deployment was attributable in fact to other considerations than Peking's nuclear capability and potential. James Reston of the New York Times has dubbed the ABM "the anti-Republican Missile". I will not deny that there has been a partisan dimension to this entire issue with both Democrats and Republicans maneuvering for party advantage in a pre-election year, and Mr. Reston may well be correct when he accuses the President of ". . . not dealing with the problems before him but with the politics of the problems" in making his ABM decision. In any event, it is most unfortunate that we have not heard the President's views of the very fundamental substantive considerations involved in the ABM controversy.

However, this line of inquiry does not lead us very far. Let us turn instead to the rationale which is now being expounded with regard to Communist China as a reason why we need a $5 billion "thin" ABM defense.

In a major follow-up speech on October 6, Assistant Defense Secretary Warnke addressed himself to this and other issues not gone into by Secretary McNamara in his earlier San Francisco speech.

Among other things, Mr. Warnke argues that our anti-China ABM will reinforce President Johnson's 1963 pledge to protect nonnuclear states against Chinese nuclear blackmail and thus make it easier for Asian nations to sign the Non-Proliferation Treaty. Mr. Warnke's reasoning is ingenious but dubious in its accuracy. For instance, on October 1 an Indian Foreign Ministry publication had the folowing to say:

"The Government of India's decision not to sign the Nuclear Non-Proliferation Treaty stands intact in spite of big power pressure . . . The question of guarantees by the United States and the Soviet Union either jointly or individually has been dismissed as unworkable."

There are several passages in Mr. Warnke's remarks concerning Communist China which merit close attention because of their wider implications for U.S. policy. Parenthetically, it is most unfortunate that Secretary Rusk, who has recently conjured up the frightening image of "a billion Chinese on the Mainland, armed with nuclear weapons", has not given us his views of Mr. Warnke's assessment which follows:

"We see no reason to conclude that the Chinese are any less cautious than the rulers of other nations that have nuclear weapons . . . Indeed the Chinese have shown a disposition to act cautiously, and to avoid any military clash with the United States that could lead to nuclear war.

Following on the heels of this most interesting assessment Peking's policy-orientation, Mr. Warnke goes on to state:

"In deploying this system, we seek to emphasize the present unique disparity in strategic nuclear capability between the U.S. and China and to extend well into the future the credibility of our option for a nuclear response."

He also affirms that our ABM deployment will end ". . . any uncertainty as to whether or not the United States would act to prevent the Chinese from gaining any political or military advantage from their nuclear forces."

Implicit in Mr. Warnke's exposition of policy is an apparent assumption that the Soviet Union would not honor its defense treaty commitments to Peking in the event of a U.S. nuclear strike at the Mainland. I think this point requires a definite clarification and I intend to seek one from both Secretary Rusk and Secretary McNamara.

Administration spokesmen have been largely silent on the impact of the ABM decision on our relations with our NATO allies, and there is evidence that this very important aspect of the decision was not given sufficient consideration.

According to press reports, our ABM decision has been received with skepticism and disfavor in most NATO capitals. Two of our closest Allies, Canada, and the U.K. have publicly deplored the McNamara announcement. At a minimum, NATO feathers were unnecessarily ruffled by a lack of consultation on an important issue, at a time when the whole Alliance is passing through an internal crisis of confidence. According to a Washington *Post* survey the only NATO capital that took heart from our ABM decision was Paris, and that for reasons which are not necessarily helpful to our national interests. The *Post* reports that the French are having a "field day" with the "disquiet caused by the American decision" and see it as "a new vindication for their policy of disengagement from the Atlantic Alliance."

It is not by intention tonight to offer definitive answers to the many profound questions which have been raised in the course of this review of the dynamics of an important national decision. Rather, I have tried to suggest the scope and the implications of the issues which are involved. There are others too which I have not even sketched in this brief *tour d'horizon*. If it does accomplish anything, I think this review dramatizes the inadequacy of the national debate of the ramifications of opting for an anti-ballistic missile defense. It is clear, however, that only the initial round of debate has been concluded. The proponents of a full-blown "heavy" ABM defense against the Soviet Union have been denied victory on this round by Secretary McNamara's adamancy and by his compromise action in agreeing to a thin anti-Chinese ABM deployment. But we are now experiencing but a brief hiatus before the battle is renewed.

It is imperative therefore that the full weight of all elements and all points of view in our society be mobilized to participate proportionately in the next round of debate. It is only in this way that we can be assured of a truly national decision which reflects the true balance of our national interests.

The basic issues have now surfaced. They need further clarification and refinement, and much much more searching exploration. As one Senator, I shall do my utmost to assure that we have a real national debate before we move any further down the road to a Buck Rogers world of missiles and counter missiles where fatalities are counted in the "megadeaths". Concurrently, I shall do my utmost to insure that the proper issues are debated and that decisions are not camouflaged by illustory technical jargon intended to intimidate or exclude the layman from the decision making process. It is in this aspect of the challenge that our universities can play their most vital role. I entreat you to join in this defense of the national interest.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If there be no further morning business, morning business is closed.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS ACT OF 1967

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The PRESIDING OFFICER. The clerk will state the bill by title.

The LEGISLATIVE CLERK. A bill (H.R. 7819) to strengthen and improve programs of assistance for elementary and secondary education by extending authority for allocation of funds to be used for education of Indian children and children in overseas dependents' schools of the Department of Defense, by extending and amending the National Teacher Corps program, by providing assistance for comprehensive educational planning, and by improving programs of education for the handicapped; to improve authority for assistance in schools in federally impacted areas and areas suffering a major disaster; and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate resumed the consideration of the bill.

CALL OF THE ROLL

Mr. MORSE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll, and the following Senators answered to their names:

[No. 372 Leg.]

Aiken	Gruening	Mondale
Anderson	Hansen	Monroney
Baker	Harris	Montoya
Bartlett	Hart	Morse
Bayh	Hartke	Mundt
Bennett	Hatfield	Murphy
Bible	Hayden	Muskie
Boggs	Hickenlooper	Nelson
Brewster	Hill	Pastore
Brooke	Holland	Pearson
Burdick	Hruska	Pell
Byrd, Va.	Jackson	Percy
Byrd, W. Va.	Javits	Proxmire
Cannon	Jordan, N.C.	Randolph
Carlson	Kennedy, Mass.	Smathers
Case	Kennedy, N.Y.	Smith
Church	Kuchel	Spong
Clark	Lausche	Stennis
Cotton	Long, Mo.	Symington
Curtis	Long, La.	Talmadge
Dirksen	Magnuson	Thurmond
Dominick	Mansfield	Tower
Eastland	McClellan	Tydings
Ervin	McGee	Williams, N.J.
Fannin	McGovern	Williams, Del.
Fong	McIntyre	Yarborough
Gore	Metcalf	Young, N. Dak.
Griffin	Miller	Young, Ohio

Mr. BYRD of West Virginia. I announce that the Senator from Louisiana [Mr. ELLENDER], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Hawaii [Mr. INOUYE], the Senator from Utah [Mr. MOSS], and the Senator from Connecticut [Mr. RIBICOFF] are absent on official business.

I also announce that the Senator from Connecticut [Mr. DODD], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Minnesota [Mr. MCCARTHY], the Senator from Georgia [Mr. RUSSELL], and the Senator from Alabama [Mr. SPARKMAN] are necessarily absent.

Mr. KUCHEL. I announce that the Senator from Colorado [Mr. ALLOTT], the Senator from Kentucky [Mr. COOPER], and the Senator from Idaho [Mr. JORDAN] are absent on official business.

The Senator from Vermont [Mr. PROUTY] is absent because of illness.

The Senator from Pennsylvania [Mr. SCOTT] is necessarily absent.

The Senator from Kentucky [Mr. MORTON] is absent to attend the funeral of a friend.

The PRESIDING OFFICER. A quorum is present.

COMMITTEE MEETING DURING SENATE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Subcommittee on Public Buildings and Grounds of the Committee on Public Works be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR KUCHEL ADDRESSES CALTECH YMCA

Mr. KUCHEL. Mr. President, I had the honor to speak on the campus of the California Institute of Technology, at the invitation of the Caltech Young Men's Christian Association, last November 30. I ask unanimous consent that a portion of my comments be printed at this point in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

FACING THE GHETTO: BRINKMANSHIP OR COMMITMENT?

(Partial text of address by U.S. Senator THOMAS H. KUCHEL, at the invitation of the Caltech Young Men's Christian Association, Beckman Auditorium, California Institute of Technology, Pasadena, Calif., November 30, 1967)

Ralph Waldo Emerson, poet-essayist of the century past, on one occasion observed: "It needs a whole society to give the symmetry we seek." In facing the sprawling, spreading, urgent plight of the American city, especially the isolated, racial ghetto with its exaggeration of every city problem, we do indeed need a whole society, if our unique form of society is to survive and flourish, and fulfill the symmetrical American dream.

Long before Emerson, a Greek of the 6th Century B.C., Alcaeus, said of Athens: "Not houses finely roofed or the stones of walls well-builded, nay nor canals and dockyards, make the city, but men able to use their opportunity."

Today we look at the city and the many men who use their opportunity and use it well. Focus for a moment on what we have come to call the American ghetto. It sits in the core of the city, and it contains many men who do not use opportunity because, in large measure, they enjoy little opportunity to use. It is this ghetto and its people which we seek to explore this evening. We will go in, and try to determine where we are. We will try to find a way out, and decide where we are going.

Much has been written about brinkmanship in foreign affairs over the years: How John Foster Dulles raised it to a fine art confronting the Soviet Union in the middle and late 1950's under President Eisenhower, facing down the cold war enemy at the very brink of possible conflict; how the late President Kennedy practiced it at the Cuban missile crisis.

I would like to suggest tonight that we are witnessing brinkmanship in our Nation's cities. We are on the verge of a broad-fronted commitment against the blight and poverty of the ghetto. We need now to take that one step in many sectors which will involve all of us: government, those in the business community, you theoreticians and activists in colleges and universities, men and women from organized labor, those outside the ghetto, and perhaps most important, those inside the ghetto themselves. The step should be taken with a sense of common purpose.

We should commit ourselves because there is a human need for us to do so. No other reason should be necessary. But for those who are particularly hard to convince, let me point out that there is one faction in today's ghetto which is practicing a brinkmanship of its own. I refer, of course, to the incendiaries who have set people and property aflame, with both words and deeds, over the past three years. They threaten that "The Fire Next Time" will engulf the entire United States. *Newsweek* talks of an "increasing appetite for confrontation," as it pours its resources into searching out a way to help the ghetto and to avoid such confrontation. An Oxford-educated Negro from Watts asks Walter Lippmann on Public Broadcasting Laboratory if perhaps a "confrontation" isn't the way to educate America to the anguish of the ghetto. Lippmann said, "No," incidentally, warning of the "backlash you will reap."

I say there is not only no need for this armed confrontation, but that it would do both the ghetto, and the America it should belong to, irrevocable harm. I believe social balance and a way out—for the ghetto resident and for the alienated taxpayer or backlasher—can be and should be provided as an alternative to a massive confrontation.

Indeed, I think our ghetto moves should be made very much within the framework of the laws of our time and the order of our society. Uprisings and riots can be put down by the agencies of law enforcement, and without the vigilantes who seem to yearn to repress their fellow citizens. But any massive revolution, and the inevitable, repressive crush of response, would also destroy our present society and would set back, by decades, what racial and economic progress have actually come in recent years.

Promises have been made by one generation. I believe that generation should keep them. But much of the energy and most of the meaningful work to translate the promises into effective action, must come from the younger, emerging generation of thinkers and doers. Already, the front-line troops of the war on poverty are young people who have made a commitment with themselves. When I read that a VISTA volunteer contemplates sleeping in a New England jail because the United States Congress delays appropriating the interim funds to keep her poverty program and her living allowance going while we debate details, I am not very proud. On the other hand, when I see a vast segment of our young population withdrawing from the daily struggle with the world and becoming social iconoclasts, the supreme flowery isolationists of urban America, I am not very encouraged either. This is a time for commitment, not holding action or retreat, and we must appeal to youth for an alliance of action and purpose with his neighbor. Similarly, any generation must back youth with financial resources and good faith.

Consider the age of the average inhabitant among the 30,000 in Watts. I am told a recently completed survey put the age at 14 years. That single fact is distressing in its implications of large family units in poverty. But it is hopeful in terms of having time on the side of rehabilitation. More than anything else, that very young average age is a supreme argument for youth outside the ghetto to begin learning what the ghetto is all about. It is the problem of tomorrow's citizen far more than it is today's.

That is why I am particularly pleased to try to make common cause with a university audience tonight. I am convinced there is an untapped reservoir of youth still to become involved, which can match the many who have already recognized the task to be done in the cities of the United States.

Let us explore for a moment what I call the "mathematics of concern." Hopefully, some figures can demonstrate to the technology-oriented why it is they who should see the problem of the disadvantaged in the central city as something which at least in part involves them, like it or not.

One of the premises here is that the problem we face in the ghetto, as a part of the central city, is primarily the problem of the minority population, and, beyond that, chiefly the problem of America's Negroes. There is, to be sure, a sizeable Latin American ghetto in many large cities, usually Mexican or Puerto Rican in origin. That presence is getting special attention, in such legislation as the Bilingual Education Act, which I am proud to say I co-sponsored, to ease the transition from native Spanish to English language education.

But I tend to think these Spanish speakers have taken the place of the Italians, the Irish, the Eastern European Jews and the other immigrant ghetto dwellers of past decades, and that like those immigrants, they will find their way out. The Negro, who has been an American for many more generations, has been denied many of the opportunities that the poverty stricken immigrants discovered and seized.

First, consider that the central city has been essentially abandoned by the white man as a living place, while the Negro population has grown there. Between 1950 and 1966, a full 87% of the Negro population growth took place in the central city. Among whites, only 2% of the growth occurred in the center while 79% took place in the suburbs or "urban fringes." As whites have moved to the suburbs, so have their factories. Over 60% of new industrial buildings in standard metropolitan areas between 1960 and 1965 took place in the suburbs. In Los Angeles, it is worse, with 85% built in suburbs in that period. When industry moves to the suburbs, the Negro ghetto worker cannot always follow except by day and at great expense.

Indeed, one study in Chicago revealed that Negro workers, on the average, travel about twice as far to work as their white counterparts. One job seeker from Watts reports spending $2.80 and taking 2½ hours to go for a job interview by greater Los Angeles' far-flung transit system, and spending the same money and effort to return home. Needless to say, he was discouraged at the prospect of the daily routine. It was far easier to journey to and from Watts years ago when the old Pacific Electric street cars were running, but they are now long since gone, with a modern rapid transit system still somewhere in the future. The central city jobs which are left to the immobile ghetto resident are usually managerial, white-collar jobs for which the Negro is untrained or ill-trained.

The man who is left in the ghetto as job opportunities leave is what some unpopular bureaucrats in Washington have called the "high-cost citizens" of our Metropolis. One of the high costs is welfare. In 1966, 14% of the non-white, mainly ghetto population was receiving welfare, while only 3% of the white population was. Other public costs, such as police protection, increase where the ghetto grows and festers.

So much for the human composition of the ghetto and some of the many costs. Where do we go to find the revenues, the money, to meet these costs? Not much of it is going to come from the ghetto, for the ghetto even at this moment is crumbling further. More than 4 million urban families live in substandard homes. The condition of housing units in Watts in 1960 reflected 14% which were deteriorating; by 1965, 21% were deteriorating, and the percentage of "dilapidated" units had doubled. David Rockefeller, President of Chase Manhattan Bank, told a Senate committee not long ago, "Deteriorating neighborhoods are a constant drain on municipal finances. While they continue to absorb a full share of services such as police

and fire protection, street maintenance and sanitation, their deflated real estate values offer only diminishing assessments."

The result of this concentration of high-cost humanity in a low-revenue area is two-fold.

First, the man who has been left behind is left behind at a rapidly accelerating rate. His employment tends to be physically farther away from his home than it used to be, even as the cost of transit increases to record levels. In education, ten years ago, the cities and the suburbs spent about the same each year per pupil; today, the central cities spend $150 less, and have more trouble than ever encouraging the best teachers to help them. A recent Census and Labor Department report on Negroes in the United States stated its most "distressing" evidence indicates that while more Negroes are entering the middle class and those outside the ghetto are making progress, conditions are "stagnant or deteriorating in the poorest areas."

The second result is that the man in the non-ghetto area, the property owner in the suburb, is getting a bigger tax bite every year to maintain an area and a people he never sees, if he can help it. This is the main auxiliary answer today to the quest for revenues for the ghetto: property taxes. And as David Rockefeller points out, many large cities have "just about reached the limit of their taxing capacity." The suburban homeowner knows that some of his local taxes, and state and federal as well, are going to help the ghetto.

Is this involuntary tax link to be the only involvement of the man outside the ghetto with his unfortunate counterpart who is inside? If so, I regret to say that his taxes are likely to be higher, probably at all governmental levels.

As I think I can demonstrate, there is a trade-off here, between the involuntary financial involvement many of us have with the ghetto, and the degree of energy presently put into constructive investment of concern, time and private financial resources. It is a part of the mathematical "why" of concern, the personal and financial part.

Another part of the formula lies in purely human numbers and their truly frightening proportions. It took hundreds of thousands of years for man to reach today's population of slightly over three billion. But population experts warn it will take a mere 40 more years for population to double to six billion, if present growth rates remain unchanged. Within our country, California has already shown how difficult it is for a relatively wealthy, technologically advanced state to cope with growth. And we can expect more of the same, as the Golden State's population swells from its current 20 million inhabitants to a projected 50 million by the year 2000.

More to the point, we are destined to become an increasingly urban society here and throughout the world. Constantinos Doxiadis, the international architect and city planner, paints a rather bleak picture of future human crowding:

"The situation is going to become even worse in the future since there is no visible indication of a change for the better.

"By the year 2000 urban population will be at least doubled and urban land will be many times more extensive. The number of machines in our cities will increase immensely. All this means that the greatest pressures will be on our cities, pressures which they cannot stand. A century from now the situation will be disastrous.

"By the end of the century the structure of our society will be different. 91% of the population will be urban, and this percentage will continue to rise. The remaining 9% will have many characteristics of an urban population. This entitles us to say that by the end of the century, 95% of the population will belong to an urban society, and this percentage will continue to increase. We are heading towards a completely urban society, and we overlook this fact.

* * * * *

"Man is going to turn into a misguided, displaced person, hiding in the depths of buildings, fleeing the most developed parts, spending perhaps all his spare time commuting to work and traveling to and from points of interest, trying to communicate with others. He is going to have more characteristics of a nomad and troglodyte than of a citizen."

While you and I may not yet feel like the full-fledged troglodyte, or cave man, we in the Los Angeles area do, I think, recognize the long abominable commute and rising social tensions as crowding increases here. If it is hard to live cheek by jowl now, what will it be like in the greater metropolitan area, much less within the ghetto, when this Malthusian nightmare befalls us? Efforts to smooth the frictions between groups of men must be pursued now. I see the attention paid to the poverty-stricken and the ghetto prisoner as a necessary response to a mathematical imperative: We are becoming too crowded to ignore such things. Ironically, the polarizing of the white and non-white worlds within America might increase just from tension-producing proximity, if nothing is done to improve the lot of the man on the bottom.

I used all these numbers to illustrate that, with the passage of time, the choices are getting harsher. They will get harsher still. It is no longer just a matter of helping fellow humans, of seeing social justice done for those who have suffered too long. That time has passed, and our record on the whole is rather shabby. But now self-interest, too, is involved. The ghetto is impinging more, and more, and more on American pocketbooks in the form of taxes, and on American activity outside the ghetto as population swells. The choice—if it really remains any more—is whether to take a voluntary step to meet the problem, or to let events and the ghetto continue their unguided course until they spiral out of control.

The choice must be made to commit the private sector of the United States to the ghetto in great quantity, and with the dedicated aim of promoting viable private sector activity located within the ghetto and owned and run by ghetto residents. Only by taking this initiative can non-ghetto America hope to see its cities become whole and healthy again, with every segment of the urban population self-sufficient enough to contribute, rather than to drain.

Americans have been presented with enough motives for doing something. Assuming they want to do it, how do they do it? Here is where we get away from the numbers (none too soon) and back to the human aspect of the ghetto.

I am convinced that the first step for any individual, corporation or government official who is going to wade in to the ghetto is to learn what it is he is getting into and who it is that will meet him at the ghetto curb. For this evening, I will call this initial process "sensitizing," because that is the exact word used by one young ghetto resident for what he feels is lacking in the outsider's approach. It has particular relevance to the Caltech YMCA because I believe that is the single most realistic aim of your program of students living in the ghetto, and in ghetto "tutors" coming to the campus.

Sensitizing, in photography, is chemically making a film or plate susceptible to light so that images are held permanently, just as they were in the moment of exposure. A piece of film which came out of a factory unsensitized for light could be exposed for any length of time and no impression would be made on it at all.

The ghetto outsider, who drives through the ghetto on his way to work, or merely sees the ghetto face occasionally on television, or, worse yet, just hears and reads what others say in some casual reporting of ghetto events, is not going to hold an image or impression of the ghetto as it is, any more than an untreated film would hold it. His prejudices, misconceptions and apathy remain as untouched as if his eyes never opened and his ears never heard.

One ghetto youth invited to Senate hearings urged Americans to take the trouble to learn that "all Negroes are not dirty, all Negroes are not lazy, all Negroes do not grin even in pain." Then he took a little dig at some of our Nation's unsensitized advertisers, as he appealed to us to realize "that, yes, blondes have more fun, but blacks have a little."

It isn't just the white man who needs all the sensitizing, as another ghetto resident tells us: "There had been no active recruiting in the first place, because the people themselves, I am talking about Negroes now, not whites, they were out of touch with the ghetto itself."

Getting to know the ghetto and its denizens is hard. In East Los Angeles there also is a ghetto, you know. You had best know Spanish to really learn what that area is all about because it is the Mexican-American ghetto. It has a poverty problem and a host of other problems which rival those of the Negro ghettos of Los Angeles.

Even if everybody spoke English, though, the message might well be missed. For in our native tongue, warns one who escaped the ghetto recently, "the language is bitter and it smacks of desperate conduct and action. Yet, even worse, the Nation's ear is not trained to recognize it."

It is time that someone besides the social workers, who may or may not recognize the language, takes the time to listen to that language—as profane as it might be—and find out what is behind it.

I suspect that Henry Ford II, a good man, I believe, became sensitized to the lights and shadows of the ghetto as he never was before when he actually ventured into what was described as a "dingy ghetto church" to talk to a Detroit Negro militant for an hour and a half recently.

No one expects every industrialist or even every commuter to detour through after work and stop at a ghetto church for a shot of sensitivity on the way home. But we might expect the recruiting personnel manager to go in and learn the language of the ghetto, so he can communicate enough to find out what he is missing by not hiring the undereducated man before him. We might expect a factory location expert to take the time to become sensitized, so he can get the help he needs. We would certainly hope the university professor who lectures on urban affairs is acquainting himself and his students with "the way it is, baby," in the lecture hall with the pool table and the students of life surrounding it.

Last year, one Eastern college got a real roasting from one of my Senate colleagues who discovered that this commuter institution had so ignored the slum around it for years that its leaders were totally unable to talk to the angry ghetto dwellers who were being moved aside to make room for university expansion. "If a university itself is unwilling to get its hands dirty with the problems of every day life, I wonder of what value their theories would be, as they are handed down from one thesis to another or from one book to another . . . untested in their great 'backyard' laboratories?" asked this Senator, with no real question in his voice at all.

At this point, Caltech and its YMCA are due great credit for their role in "sensitizing" students to receive images from the ghetto. You have a mutually beneficial arrangement with the tutors from Pasadena's West Side, and have set a "how-to" example which I hope will be copied widely through-

out the United States. I don't think anyone expects that each Caltech "Y" participant will graduate as another Jacob Riis reformer, but if your participation is successful, the picture you have should be clear. Anything more than that, the realists would consider a bonus. The tutors may even have gained something from the experience, too.

As we gain an awareness of the ghetto, we outsiders sense that there is a certain mobilization going on with it. At its best, it is an organizational move to make meaningful strides forward independent of outsiders. At its worst, it is the arming and exhorting of ghetto revolutionaries to prepare them for that confrontation which we have learned to fear each summer. It is, in any event, a movement, a stirring which cannot go totally ignored.

I propose a mobilization of those outside the ghetto as a natural adjunct to the new awareness. This means business, as much as any other segment of American society. It is clearly overdue, but business' turn to try its hand is here.

Pioneers have led the way. It has been said that Chad McClellan of Los Angeles is probably the only former president of the National Association of Manufacturers to have on his study wall a framed thank-you letter from a black nationalist. It is reward for a chore of successfully mobilizing job opportunities within the business community for the unemployed of Watts, a chore he began right after the Los Angeles riots of 1965 and which the Negro letter writer said he performed "exceptionally well."

Aerojet General Corporation has moved a subsidiary into Watts, run entirely by Negroes, which is expanding its industrial function as its 500 ghetto-resident workers become trained in new skills. It is understood several more corporations are practicing brinkmanship, and hopefully soon will be in the fold.

U. S. Gypsum Company has tested rehabilitation techniques in New York slums, is now moving on to Chicago. Ford Motor Company, with its chairman of the board recently sensitized, has begun hiring directly in and from the Detroit slums without written tests but with promises to make the hiring decision on the spot.

This is not to say that these companies are abandoning the profit motive as they search out new ways to help in the ghetto. U. S. Gypsum is quite frankly trying to increase sales of building materials. Ford's Mr. Ford argues, "some may feel it unseemly to mention cost and profit when urgent human needs are involved, but the profit motive is a powerful force. It must be maintained, and it can be used effectively to help the urban crisis."

Jobs and housing efforts are not by far the only opportunities for private enterprise in the ghetto. If technology is to be turned to a human task, it must be done with the resources of industry. I do not believe the government apparatus, especially the Federal Government apparatus which would be charged with the job, is flexible enough or widely experienced enough to harness, say, infra-red rays to the particular cooking, lighting and heating needs of the ghetto home. (For all I know, infra-red may burn a house down before it heats it, so please don't take that as a specific suggestion.)

Of course, the university, as the center of much "pure" research, plays a role here, too. I would like to pay tribute to my host institution of this evening again, in this case for its superb initiative in launching an 85 million dollar drive to bring science and technology to bear on the problems and needs of humanity. Dr. DuBridge says 85 million dollars, "measured against the cost incurred in man's long history of waste and self-destruction, may safely be counted as nominal."

Where cities are concerned, Caltech's ambition might cheer Lewis Mumford. He wrote some pretty gloomy lines in *The City in History* about the way technology seems divorced from any social ends:

"We live in fact in an exploding universe of mechanical and electronic invention, whose parts are moving at a rapid pace ever further and further away from their human center, and from any rational, autonomous human purposes. This technological explosion has produced a similar explosion of the city itself: The city has burst open and scattered its complex organs and organizations over the entire landscape. . . . In short, our civilization is running out of control, overwhelmed by its own resources and opportunities, as well as its super-abundant fecundity. The totalitarian states that seek ruthlessly to impose control are as much the victims of their clumsy brakes as the seemingly freer economies coasting downhill are at the mercy of their runaway vehicles."

As a man from Uncle—Sam, that is—I should be talking more about the Federal Government, I suppose. That is within my sphere of responsibility. But, of course, the Federal Government has been the main outside presence in the ghetto in many cities for many years. That is what involves me officially in the problems of the city and it is what worries me. The Federal Government is neither rich enough nor personal enough nor close enough to shoulder the burden as it must be shouldered, by itself. And there is no immutable national rule or regulation or law which Congress can adopt to apply in every ghetto of every city in the land.

That is not to say I have not approved the mobilization of the war on poverty forces in recent years, because I have. I continue to support that war. I think we must consolidate the gains we have made and see where we can make more. The aim of the war on poverty—and many seem to be losing sight of this as they meat-axe funds in House and Senate committee meetings and floor debates—the aim of the war is to increase the self-sufficiency of the poor. I think that aim has been generally kept in mind, although the occasional executive and legislative aberrations have disturbed many, and the riots of the past three years have caused some of my colleagues in Congress to consider the entire ghetto community ingrates and unworthy of further beneficial attention.

But while I approve of the poverty war, I become increasingly convinced that the best role of government, city, state and Federal, is to do all it can to cooperate and actively encourage with tax forgiveness and make it easy, not tough, for the businessman who can go into the ghetto and bring his business or industry with him. He may be going in with profit motive firmly in mind, but what is wrong with that? If he pulls the ghetto up by supplying advancement jobs and training for its people, no one should complain. Corn Products Company experimented with a program which taught its illiterate employees to read and write in just 160 hours. The program not only upgraded the workers, but saved Corn Products $100 a man over the cost of hiring and breaking in a new one, the company figures. That cost saving may be a compelling motive to repeat the program, and cannot be pushed aside as simply unredeeming greed. Corn Products is now carrying its education program to several other corporations and at least one community, the latter under the poverty program.

Here is a whole area of government mobilization which has been discussed little. It needs a lot of exploration.

Certainly more can be done by both executive and legislative branches of the Federal Government to open doors for private enterprise to perform in the ghetto.

At the risk of appearing partisan for a moment, I would like to review some of the leadership steps we in the minority party of the U.S. Senate have taken in recent years and months to try to broaden the private role.

In 1965, I was pleased to co-sponsor with Republican colleagues what we called the Human Investment Act, as a proposed adjunct to the war on poverty. It would have provided government grants-in-aid and tax relief to corporations which undertook job training programs for the ghetto resident and other low-level employables or unemployables. Unfortunately, that bill did not pass. I think if it had, we would have seen today's tremulous advances by business into the ghetto pushed ahead by a year or so. Time has been wasted.

In 1966, an amendment to the poverty legislation which I authored was accepted, making it a matter of legislative policy that, consistent with the anti-poverty aims, "whenever the utilization of resources of the private sector . . . would be at least as effective as the resources of the government, private enterprise should be given priority in carrying out programs authorized by this Act." I believe constant review is needed to be sure this policy is being carried out by the Office of Economic Opportunity. I am more convinced than ever the theory is sound.

This year, Senator Charles Percy of Illinois introduced a bill which would encourage private industry to invest in private housing in the ghetto, and more importantly would encourage greater home ownership by the disadvantaged. It is a vast improvement over so-called public housing, which provides none of the pride of ownership or stake in the community that private housing does. Under the compromise legislation finally accepted by the Senate committee, a government corporation would make grants and loans to individuals who are interested in public construction of housing, and would provide the low-income homeowner the chance to participate in a rebate of interest payments on the unpaid portion of the loan. I hold out some hope that this bill may become law, if not this year, then next.

Also, this year, a bipartisan effort to provide tax incentives to business to move factories and jobs into the ghetto surfaced with a broad show of support. I think Congress itself is beginning to realize, if belatedly and hesitantly, that all resources must be thrown into the fight, including private resources. The Executive Branch is moving slowly in that direction, too. A little run-in I had last year indicates the reluctance of some agencies to make room for private action and progress. The outcome, however, was beyond my greatest expectation.

Following the riots in South Central Los Angeles, I had received complaints from builders, buyers and brokers of homes that lenders refused to make home mortgage loans in the so-called curfew area. The lenders said the risk was too great. Such an attitude was not hard to understand, considering that the area by now had acquired a reputation as being prone to riot and destruction.

It seemed to me that every effort should be made to encourage building anew in Watts and its environs, and that it was especially important to encourage ownership by the area residents of their own homes. It would certainly give a man a greater stake in society if he were buying his own home and would hopefully form the core of a stable community.

The Federal Housing Administration was in a good position to assume part of this risk. But the FHA fought a bill I proposed permitting it to insure mortgages for home purchase in city riot areas for the first time. By this time, in late summer of 1966, more cities had suffered riots.

Over the objection of the FHA, the Senate adopted my amendment to the Demonstration Cities bill of 1966. My amendment substituted the term "acceptable risk" for the phrase "economic soundness" in the criteria

for approval of FHA guarantees. Thereafter, it passed the House of Representatives and became law.

Even after passage of this legislation, however, the FHA was extremely reluctant to implement the new rule. To judge by new FHA grants in Los Angeles, the rule was being ignored.

Only at the end of this summer, after the tragedy of hundreds more made homeless by riots in Detroit, Newark and other cities across the Nation, was the FHA goaded into issuing the new implementing guidelines. By October, the Administration was announcing that it had provided mortgage insurance to help over 1,000 families purchase homes and that it was making commitments "at a rate of more than 150 a week."

The smash came, however, when leading companies of the life insurance industry recently pledged to spend one billion dollars of their investment funds on ghetto housing. Naturally, the companies requested and received promises of FHA insurance to minimize the risk of investing in areas of potential violence. It was only by happy accident, of course, that the way had been paved a year earlier to permit the assumption of that kind of risk by the FHA.

The search must continue to find ways to make it easy for business to help in the ghetto. Public-private cooperation should not simply happen by fortunate coincidence alone, nor be prevented from happening at all by government hostility or inaction.

The FHA riot insurance experience shows that no matter how progressive legislation may be, there is a certain conservatism, or desire to retain the status quo, inherent in government bureaucracy. It is rooted in both inertia and fear, and I believe it should be tested, battled and rolled back as we seek the means of developing incentives to business and to people outside the ghetto area to come in and to help solve the problems.

I predict the next generation of riot insurance legislation will provide for some kind of participation by the Small Business Administration and will be considered next year. Anyone who walks or drives through Watts today can see that business is not exactly swarming into the gaping holes left on charcoal alley. Again, many businessmen feel the risk is too great to move into the area with stores, service centers or light manufacturing concerns. Even if they want to move in, lenders may not glow with great enthusiasm for investing capital in the area. Legislation permitting the SBA to guarantee loans against failure of business through riot damage is needed, in the same fashion that home purchase loans are available for guaranty.

As it is, one of the chief complaints in Watts today is the lack of a decent shopping center. The reluctance of the outside world to invest in a section of central city where turmoil has erupted in the past also serves as a grim reminder to its residents that they do, indeed, live in a world apart. Perhaps most important, new business in the ghetto, encouraged by SBA insurance, would provide one more source of jobs close at hand and modern retail outlets similar to those in many other areas of the city.

I think one of the most encouraging things to happen in the United States in several otherwise rather bleak years for the city is the formation of the Urban Coalition. When you get a group which links the arms of General Electric Company and other business leaders, Walter Reuther and his friends in organized labor, big city mayors and civil rights leaders, to go in and lobby Congressmen on bills affecting the central city and its residents, you have what I call a very positive force working. Now that the legislative year is almost over, coalition members are turning their efforts to forming autonomous urban coalitions within individual cities, groups which can bring pressures to bear, or at least educate, local and state government to do what is needed for the cities. Unfortunately, not all city "establishments" are responding to the call to set up such a coalition. Those that are, it seems to me, are guaranteeing themselves some results.

City government has mobilizing to do, too. In one major city in recent weeks, a large company—one with a good reputation for educating its disadvantaged workers—just yearned for a chance to move into the city's riot-torn area with a new plant, representing some 500 new jobs. The company required 10 acres. This created no problem, because the community redevelopment plan called for more than that to be made available for a walk-to-work industrial park. Checkerboard-ownership lots and parcels in the site contemplated by the plan could be acquired and consolidated with federal assistance.

It was an ideal arrangement, except that the redevelopment plan had been so bogged down in red tape and lethargy for so many months that the corporation is now looking in essentially suburban locations too far from the ghetto for its workers to be ghetto men and women.

"Some just plain old cooperation would have gone a long way with us," says a representative of the company who bargained with the city.

Then, too, there is need for public agencies such as community redevelopment agencies to learn techniques of communication. Whether it is called "sensitizing," or simply understanding, we have been shown recently that there is an inability of some of these agencies to know whom they are dealing with in the ghetto, and then to explain their program of urban renewal or planning so that the ghetto community accepts it.

In fairness, it should be pointed out that urban redevelopment plans are often legitimately questioned on grounds they subvert human values to financial considerations. To some, "urban renewal" comes out "Negro removal." Beyond that, regrettably, there is a very definite core of people in the ghetto itself who have a financial stake in the status quo. Some are merchants, some are property owners, and there are others, all of whom raise bogus cries of damage to ghetto dwellers in order to thwart change.

So it is not just city government which must be held responsible for unpreparedness in the ghetto. But there is a responsibility of leadership and of judgment which must be exercised at the top. When those qualities are lacking, the city falters at the ghetto gate, and serves the rest of the city poorly to boot.

I have left until last the ghetto figure himself. I think it is premature for us, on the outside, to suggest a course of action to help him and to help him help himself. It is so easy to coach from the sidelines, and to shout "grab that ball," when we think that opportunity comes his way. But there is a lot of quiet acquainting to be done between that individual and opportunity before many spectacular catches will be made.

I would like to lend my encouragement, however, to many of the all-ghetto projects which seem to be springing up, often with resources and some leadership from Negroes who have become successful in their own right. Where many did, and still do, turn their back on the ghetto as they gain recognition or wealth, more are remaining to help less fortunate brethren, evidence shows. This is heartening, as are the constructive efforts made by many youthful former gang members who are trying their hand at free enterprise efforts with a fierce independence which belies some old myths about Negroes.

I think the best I can do is to urge that law and order rule the ghetto. That is the basis of our society. If you break the law and destroy order in the name of progress, I suggest you are breaking and destroying progress as well. Within the framework of law and order, much can be done that is unorthodox, that is exciting and that fulfills. While he is operating within that framework, the ghetto dweller should speak out to the outsider, tell him needs, suggest the way the environment of his neighborhood should be built. He should otherwise assert himself and discover his pride. He could do worse than thinking in terms of sensitizing those outsiders to the ways of the "under class" living in a neighborhood where the scars of past turmoil still show.

And we on the brink would do well to listen, and to act on our concern, for in Lewis Mumford's words, "The best economy of cities is the care and culture of men."

ADDRESS BY SENATOR KUCHEL BEFORE CALIFORNIA PRESS ASSOCIATION

Mr. KUCHEL. Mr. President, I was honored to speak before the members of the California Press Association at the Clift Hotel in San Francisco on Friday, December 1, 1967.

I ask unanimous consent that there be printed in the RECORD a partial text of my comments on that occasion.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

IT KEEPS THE WATERS PURE

(Partial text of remarks by U.S. Senator THOMAS H. KUCHEL before the California Press Association, Clift Hotel, San Francisco, Calif., December 1, 1967)

In 1823, near the end of his long and fruitful life, Thomas Jefferson wrote these memorable words in deep devotion to a unique and unprecedented American constitutional guaranty:

"The only security of all is in a free press. The force of public opinion cannot be resisted when permitted freely to be expressed. The agitations it produces must be submitted to. It keeps the waters pure."

I am highly honored to join with you on the occasion of the 97th Annual Winter Conference of the California Press Association. As a citizen, and as a servant of the people of this State, my respect for the press of America, and of California, continues to grow.

Jefferson spoke an eternal truth. The only real security lies in the freedom of the press. That was his view, though he could speak feelingly and critically of the agitations it sometimes produces. On one occasion, he said:

"I deplore . . . the putrid state into which our newspapers have passed, and the malignity, the vulgarity, and mendacious spirit of those who write them . . ."

On the other hand, he subsequently observed:

"Were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter . . ."

Your Association came into existence 97 years ago, the precise milestone which my dearly beloved mother reached last November 22. Among those members of the California Press Association are a few whom she has known for years, and some others representing families which she and my late father knew, and knew intimately, for a long lifetime. For my parents, I recall with an unbounded pride, owned and published and edited a country newspaper, the *Anaheim Gazette*. My father as a boy delivered the first issue in 1870 by horseback. He came back in the 1890's to buy it, and to publish it for two years short of a half century. San Francisco is the city of his birth and surely

the city of a proud and moving recollection of his life by all his family. For it was here in 1960, a little more than a century after he was born, that you selected him for the California Newspaper Hall of Fame. I think I may truthfully say that he knew the power of the printed word, and the responsibility of being a newspaperman. He was brought up in the house of his immigrant father to love this country, to cherish freedom and to stand for principle as he saw the light. As he was respected, so, too, he respected the newspaper profession, your profession. As one of his sons, I repeat my keen sense of honor in being invited to speak to you today.

It is a great heritage that: "Congress shall make no law . . . abridging the freedom of speech, or of the press . . ." When it was laid down in 1789, it was a public warranty unexampled in all the world. Time may dim recollections of forward progress, and Americans take their rights pretty much for granted, sometimes, indeed abusing and misusing them, and refusing to respect the rights of their neighbors. The real meanings of these constitutional freedoms are sometimes ignored. In difficult times, in periods of crisis and frustration, in facing the challenges which involve the future, if not the survival, of mankind, it is easy to condemn those who would freely exercise their constitutional freedoms in ways which might be bitterly offensive to others.

But the exercise of free speech and a free press is fundamental to a free society. They are so fundamental, so vital, so forceful in their effect upon the minds of men groping to find the truth, that they are intolerable to any form of dictatorship. They forecast the dissolution of tyranny. The book burnings by the Nazis under Hitler, the Iron and Bamboo curtains, prohibiting newspapers from abroad and seeking to abort incoming radio beams by static—all represent vain attempts to disprove Lincoln's aphorism that "you cannot fool all of the people all of the time." One by one, attempts to stifle freedom have failed, and they shall continue to fail, for the sons and daughters of man are, by their very nature, free.

When a government moves toward authoritarianism of any kind, freedom of speech and its necessary concomitant, freedom of the press, become the first casualties. When men can no longer transmit their thoughts to one another, no other freedom is secure. When men can no longer discuss their differences, then the way has been barred to making common cause against encroachments on any and all rights of person and property.

Our Founding Fathers gave number one importance to the freedoms of speech and press, and wrote in their protection in our Bill of Rights. And the American people through their representatives did the same thing in adopting the Fourteenth Amendment by which these freedoms apply to states. Congress is ordered to make no laws abridging these freedoms. This not only marks the extreme limits of lawful suppression but further serves as a guide for Congressional action within those limits. Professor Chafee of the Harvard Law School has stated that the Bill of Rights fixes a certain point of "thus far and no farther," but that long before that point is reached, it urges "upon every official of the three branches of the state a constant regard for certain declared fundamental policies of American Life."

The development of these "fundamental policies" in the American Republic was a historical development of long duration. It was the early colonists who rejected the theory of sovereignty of the crown on which the English law of speech and press was founded. Under this law, any self-expression, even though honest and sincere, and, above all, even if truthful, which expressed dissatisfaction with government by the crown, or with the conduct of public affairs by government office holders was considered a threat to law and order and therefore intolerable and illegal. Indeed, it was under the ominous dome of the Star Chamber that the first seditious libel law was brutally enforced.

In 1275, the statute De Scandalis Magnatum provided for imprisonment of anyone who should disseminate false news or "tales" from which discord might result between the King and his subjects. Truth was no defense. Even after the Star Chamber was abolished in 1641, a severe licensing statute restricted any and all public news. This licensing and censorship of the press, aimed at protecting the sovereign made its way to the colonies along with segments of the English rule. The first newspaper to be published in the American colonies did not even survive its first issue. It was immediately suppressed because it mentioned the Indian Wars and commented on local affairs. In 1671, Governor Berkeley of Virginia expressed his pleasure at the lack of progress for the press in the following manner:

"But I thank God, we have no free schools nor printing; and I hope we shall not have these hundred years; for learning has brought disobedience and heresy and sects into the world; and printing has devulged (sic) them, and libels against the government. God keep us from both."

The American colonist was indignant at the restrictions which controlled his press and his speech. The technical procedures of the English Common Law unavailing to him in any colonial judicial proceeding, began to give way to new and pragmatic rules derived from the Bible and the natural law. Law books and reports of decided cases were rare; so few statutes were printed that it was uncommon for a lawyer to possess even a full set of the laws of his own colony. Self-reliant lawyers and judges developed their own law, based on concepts of what was just and right in the community.

Perhaps the most famous test of these new rules was the trial of John Peter Zenger. Accused of seditious libel in 1734, Zenger had dared to print and write political attacks on William Cosby, the then Governor of New York, and a representative of the King. In his successful defense of Zenger, Andrew Hamilton concluded his argument to the jury with these words:

". . . every Man who prefers Freedom to a Life of slavery will bless and honour You, as Men who have baffled the Attempt of Tyranny; and by an impartial and uncorrupt Verdict, have laid a Noble Foundation for securing to ourselves, our Posterity and Our Neighbours, That, to which Nature and the Laws of our Country have given us a Right—the Liberty—both of exposing and opposing arbitrary Power by speaking and writing Truth."

While the main point at issue in the trial itself had been the question of what constituted a libel, the point of great importance to the colonies was that the verdict established by implication the right of the people to criticize the government.

Following the Zenger trial, men like John Adams and George Mason spoke of a "moral Law" and of "inherent rights." Formal rejection of sovereignty on which the English law of speech and press was founded, and the substitution of a theory of natural rights and justice appeared a ringing declaration of irrevocable rights claimed by the First Continental Congress in 1774 for every colonial. The first was the right of the people to share in their government by representatives chosen by themselves, to be governed by laws which the people themselves approve through their elected representatives, and not by edicts of men over whom they have no control. The second, enumerated as the last in the address, was freedom of the press. It was to consist, "besides the advancement of truth, science, morality, and acts in general, in its diffusion of liberal sentiments on the administration of government, its ready communication of thoughts between subjects, and its consequential promotion of union among them, whereby oppressive officers are shamed or intimidated, into more honorable and just modes of conducting affairs."

Complete acceptance of natural rights and justice was perfected in the Declaration of Independence—"We hold these truths to be self-evident, that all men are created equal, and that they are endowed by their creator with certain inalienable rights . . ."

When the Founding Fathers met to consider a Constitution they knew what they wanted to establish as a covenant of freedom, but they did not all agree on how to draft it or on what to include. Indeed, during the Convention of 1787, proposals for specific guarantees for the press were twice voted down. Some argued that not only in a government of enumerated powers was a bill of rights unnecessary but was imprudent as well. Should an attempt at enumeration of rights be made, it was argued, every right not included would be presumed to be relinquished. Others contended that state declarations of rights would be sufficient. But men like James Monroe and Patrick Henry continued to fight for a bill of rights. Without an express provision which would secure rights which were inalienable in their eyes, they saw the Constitution as a dangerous instrument calculated to secure neither the interests nor the rights of anybody. When the First Congress met under the ratified Constitution, its members were prepared to adopt the recommendations for a list of basic rights commencing with freedoms of speech and press.

The American Constitution was, as I say, the first governmental charter of any human society to give recognition to the importance of a free press. The first American patriots had come a long way, from the tyranny of the Star Chamber to a new nation with her newly conceived liberties for all her people. They viewed representative government and a free press as inseparable. Surely, you may trust the people's judgment when they know the truth. And, surely, the truth is best served in an atmosphere of freedom where the dissemination of the news is neither controlled nor manipulated. One of the wisest of our federal judges, the late Learned Hand, once wrote:

"The interest protected by the First Amendment presupposes that right conclusions are more likely to be gathered out of a multitude of tongues, than through any kind of authoritative selection. To many, this is, and always will be, folly: but we have staked upon it our all."

But the placing of a small phrase in our Constitution did not of itself end the renewed challenges to the cause of liberty. Each decade of history has witnessed the need to interpret and apply this phrase in providing the protection it was designed to achieve. The Alien and Sedition Act of 1798 sought to silence criticism of the government in an impending war with France. It was denounced by Jefferson and set right by Congress. President Jackson sought legislation to prevent the circulation of incendiary publications in southern states but John C. Calhoun opposed this attempt as a violation of "one of the most sacred provisions of the Constitution." During every war, the cry has arisen for greater restrictions of the free press. But it was not until World Wars I and II that actual censorship laws were enacted and upheld as being reasonable restrictions in time of war.

Despite the threats which have arisen, it is an everlasting tribute to the genius of the drafters of the Constitution and the members of the First Congress that the First Amendment like the entire document has had the capacity to adapt and to grow as

the problems of preserving freedom changed and became more complex. In *Thornhill v. Alabama*, the Supreme Court observed:

"The freedom of speech and of the press guaranteed by the Constitution embraces at the least the liberty to discuss publicly and truthfully all matters of public concern without previous restraint or fear of subsequent punishment. The exigencies of the colonial period and the efforts to secure freedom from oppressive administration developed a broadened conception of these liberties adequate to supply the public need for information and education with respect to the significant issues of the times. . . ."

Like all freedoms, there must, of course, be certain obligations attached to their exercise in a democratic society. Justice Frankfurter defined the boundaries:

"Freedom of the Press is not freedom from responsibility for its exercise. That there was such legal liability was so taken for granted by the framers of the First Amendment that it was not spelled out. Responsibility for its abuse was imbedded in the law."

The pen will still win its battles with the sword. And in the affairs of men, the spoken word and the written word, freely expressed, will finally overcome tyranny. A closed society cannot stand the light of day or it will cease to be closed. The access to different, varied and opposing viewpoints is the essence of free government. In this, Americans have an unparalleled advantage—more newspapers, more magazines, more books, more television and radio sets than any other people in the world. It is an advantage we need to keep.

Our press is free, free to report facts, to present opinion, to emphasize one point of view and to slight another. It is the citizen's right to accept or to reject any or all of what a newspaper prints. He will be the judge, the sole judge, of what to believe, and of what to do about it. In helping to mold public opinion, our news media are a powerful tool. And to their infinite credit, I believe that the newspapers of America have used their power well and in the public interest.

It is the responsibility of newspapers and of other periodic publications to preserve their rights by constant and scrupulous attention. As the Supreme Court of the United States said in the 1957 decision in *Alberts v. California:*

"The fundamental freedoms of speech and press have contributed greatly to the development and well-being of our free society and are indispensable to its continued growth. Ceaseless vigilance is the watchword to prevent their erosion by Congress or by the States."

Open expression of informed opinion, free give and take in debating vital issues, and finally, decisions taken in the light of all knowledge—these are essential ingredients of a peaceful and orderly society, and, I believe I may say, of a peaceful and orderly world. The truth is a driving force, and it deserves our faith as it invites its dissemination. Albert Camus expressed this credo as holding "obstinately to the tremendous wager which will finally decide whether words are stronger than bullets." This is the essential challenge of our times—to seek assurance that reason may finally prevail over brute force, that issues may at last be resolved by the quest for truth rather than by armed conflict and bloodshed. For if, God forbid, in this 20th Century world, we were finally compelled to decide our fate by war, then the lights would begin to dim all around this earth, and a terrible doom would be approaching.

The struggle of freedom is a struggle for truth. That is the excellent, exhilarating contest in which all of you can play a proud role, and play it with honor. For in reporting the "good news" of democracy and of free men's thoughts you will be traveling the road towards a better tomorrow.

TRADE AGENDA WITH RED CHINA

Mr. DOMINICK. Mr. President, as a member of the steering committee of the Committee of One Million—against the admission of Red China to the United Nations—I probably pay more attention than most to the arguments advanced by advocates of admission of Red China to the United Nations, and it never ceases to amaze me how unrelated to reality their reasoning is. Weary, perhaps, of old arguments—like the unquestioned "stability" of Mao Tse-tung and his associates, effectively disproved by time and events—the advocates of admission have turned, almost in desperation, to new arguments which border on the hallucinogenic. A prime example of this LSD-diplomacy is the suggestion that the United States ought to trade with Communist China, on the assumption that increased trade relations will turn Communists into capitalists and tyranny into freedom.

There is no need to belabor the point, but it is quite clear to any rational man who examines carefully the Soviet Union, or Yugoslavia, or Poland or East Germany that these Communist countries remain Communist, not capitalist, and that freedoms which we take for granted in this land are only dreams in Moscow, Belgrade, Warsaw, and East Berlin. The possibility of helping Red China to "mellow" through trade is even more remote, when one considers that its leaders are the most aggressive and hostile Communists in the world.

One only has to look at the recent guerrilla warfare in Hong Kong to see this point clearly. The Red Chinese now do more trade through that island than any other spot in the world, and yet are creating as many problems there as they can dream up. Fifty percent of their world trade balances originate out of Hong Kong alone, and yet the Red Chinese are attempting to make this fabled island a battleground which will have a substantially adverse effect on their trade as well as on free world interests.

In an address at Rider College in New Jersey, our colleague, Senator STROM THURMOND, of South Carolina, presented a cogent and lucid analysis of the fallacies of trade with Red China. It is an admirable address, which I recommend to all who read the RECORD.

As Senator THURMOND states:

We are making a mistake whenever we trade with Communists, whether in China or in the Soviet Union. The Communist system needs trade to make up its own deficiencies; the system needs trade to make it work. Even token trading destroys our moral position, and weakens our will to survive. It will profit us nothing to trade with the whole world if we fail to survive.

I ask unanimous consent that the address at Rider College by Senator THURMOND, entitled "Trade Agenda with Red China," be inserted in the RECORD at this point.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

TRADE AGENDA WITH RED CHINA

(Address by Senator STROM THURMOND (Republican, of South Carolina), "Operation 1968" lecture series, Rider College, Trenton, N.J., November 16, 1967)

If it had not been for the revival of the Mid-East Crisis, the General Assembly of the United Nations this week would once more be debating the admission of Red China into the UN. Once more, the Red China lobby would be in full swing repeating its tired tune, monotonously returning to the same note.

Many members of this audience are probably not old enough to remember the course of our disastrous China policy before 1949. A group of so-called experts in the United States worked for many years to assist the Communist takeover. Our policy was directly influenced by their subversive work. While it may be going too far to say that U.S. policy desired that takeover, it is clear that the subversives were able to incorporate many of their desired aims and decisions into official policy.

One of the principal instruments of subversion in our China policy was a supposedly learned academic group known as the Institute of Pacific Relations. In 1952 the Senate Internal Security Subcommittee—of which I recently became a member—held extensive hearings on the IPR, and came to a few restrained conclusions. Let me quote:

"The Institute of Pacific Relations has not maintained the character of an objective, scholarly, and research organization." * * *

"The IPR has been considered by the American Communist Party and by Soviet officials as an instrument of Communist policy, propaganda, and military intelligence." * * *

"The IPR disseminated and sought to popularize false information including information originating from Soviet and Communist sources." * * *

"Members of the small core of officials and staff members carried the main burden of IPR activities and directed its administration and policies." * * *

"The effective leadership of IPR worked consistently to set up actively cooperative and confidential relationships with persons in Government involved in the determination of foreign policy." * * *

"A group of persons associated with the IPR attempted, between 1941 and 1945, to change United States policy so as to accommodate Communist ends and to set the stage for a major United States policy change, favorable to Soviet interest in 1945." * * *

"Persons associated with the IPR were influential in 1949 in giving United States far eastern policy a direction that furthered Communist purposes." * * *

The conclusions I have just quoted are not based upon surmise, speculation, or allegation. They are based upon thousands of pages of published sworn testimony and painstaking analysis.

I have gone back to this ancient history because so many of the so-called experts associated with the IPR and its policies are still around today. In fact, they are among the most vociferous proponents of closer relations with Red China today. I prefer not to name names because not all who contributed to the IPR were actual Communists. Nor do I wish to indulge in guilt by association. The significant fact is the direction of the policies they were supporting in the Forties and the direction of the policies they are propagandizing now. The direction is the same: Toward increased U.S. support of the Chinese Communists.

The experts who created the IPR had to lie low for a while after the Communists took over Peking, but gradually they came back, their reputations refurbished by time and a vociferous mutual admiration society.

New voices, perhaps unaware of history, have been added to the old ones, but the persistent theme remains the same.

That theme is this: Red China should be admitted into the consort of civilized nations, with Communism accepted as the legitimate fate of China's 750 million people.

The theme is developed with whatever material is at hand. If the question is the diplomatic recognition of the Communist regime in Peking, then the answer we hear is that by all means the regime must be recognized. If the political climate won't bear such a frontal assault, then the theme is that we should recognize "two Chinas," one slave and one free.

Alternatively, they say that we don't need to accord Peking diplomatic recognition—that is, right away—but that both should be seated in the United Nations General Assembly. The corollary to that, of course, is that free China should be kicked out of the Security Council, and that Communist China be made a permanent member, with a permanent veto power. I have never been a strong partisan of the UN, but I can't think of a quicker way to cripple the UN entirely.

Nevertheless, this proposal popped up again this fall, like the bubble when you tip a level, by a panel of experts put together by the United Nations Association of the United States, who supposedly want to strengthen the UN. The plan predictably was endorsed by the New York Times, for whom the thought of getting cozy with Communist nations is even more alluring than the sterile appeal of the UN. The panel was headed by Robert V. Roosa, Under Secretary of Treasury in the Kennedy Administration, so you see the pro-Peking movement is only a step or two removed today from the official establishment.

However, I am not here to discuss the "two Chinas" theory. I merely bring it up to show how all these pro-Peking movements are variations on the same theme. I believe that it just is not intellectually honest to say that you are against Communism and against the excesses of the present regime, but that the way to cure China's problems is to make the Communist leaders more successful. Perhaps the most insidious of these variations, and the one I want to discuss with you, is the argument that the way to begin to ameliorate the evils of Communism is to step up trade relations.

This theme is most insidious because it comes up in the most well-meaning circles. A report issued last June by the Joint Economic Committee of Congress fell into this fatal error. It adopted almost verbatim the views of former Ambassador to Japan, Edwin O. Reischauer, who maintained that our embargo on Red Chinese trade is "ineffective." The Committee said the embargo is "actually detrimental to the long-term interests of the United States."

Of course, to accept such a conclusion, you have to agree on the definition of the "long-term interests of the United States." The long-term interests were defined as—and I quote—"integrating China—however slowly and gradually—into the world international system." This definition is false. There is no point in integrating China into the world international system as long as Communism, or the semblance of Communism, lingers in control. Our longest-term interest is national survival, and we defeat that interest whenever we assist a Communist regime.

I doubt if anyone can say what our China policy is today. It remains exactly where it was frozen in 1949 with the Red takeover, namely, a policy of waiting until the Communists consolidate power on the mainland, and develop a viable economic structure. The policies of the Red China lobby have complemented this posture beautifully, since, if adopted, they would guarantee that there would be no interference with Communist power by the free world, and they would assist the Communists in achieving what Communism cannot do alone, namely, achieve a viable economy.

I believe that our China policy should be dynamic, in contrast to the official policy of maintaining the status quo and the Red China lobby's policy of helping the Communists get what they want quicker.

I believe that our China policy should be measured by two standards. In the short run, our aim should be to neutralize Red China as a state hostile to our interests in the Pacific. In the long run, our aim should be to integrate Red China into the international system—but only as a free nation.

Neither of these aims can be served by the so-called bridge-building policies of trade and reciprocal relations. The bridge-building policy is built upon the theory that the way to change people is to change their environment. It is essentially a materialistic theory. Trade, like aid, is supposed to make men less aggressive, and less envious of another's success.

The problem of the Communist nations requires a spiritual change, not a material one. Their discontent comes from a spiritual sickness. Until the Communists leave off their dream of dominating the world, there will be no peace. Of course, when their dream is gone, there will be no Communists, either.

We are very foolish, then, if we expect trade to bring about a significant change in Communist attitudes. If we expect trade to bring about such a change, then we are no better than the Communists themselves. The theory that "the system" makes men evil is *their* theory. It should have no part in the thinking of freemen.

Trade will do nothing, therefore, to cause the Communists to become less aggressive. Instead, they will use trade as an instrument of aggression. More precisely, they will seek to use trade to strengthen their economy, and to weaken ours. We will have nothing here of the old idea of trading partners that trade is for mutual advantage; or even of the selfish idea that trade enables the sharp man to profit on an item at the expense of the less astute. Rather, the Communists will use trade in such a way as to allow an ostensible profit, while sapping the economy of the enemy in general.

To understand this better, let us look at the possible items on the trade agenda with Red China. The things that Red China needs most are machine tooling and manufacturing processes. She needs them to industrialize an economy that is 80 percent agricultural. But her needs are also the clue to her weaknesses. Red China has no convertible currency. In fact, she has no currency at all that is recognized in the outside world. The so-called "Jen-Min-Piao," the currency unit, has no intrinsic value and is not accepted anywhere—and, incidentally, this fact shows how far Red China has to go before she could become a member of the international banking system even on the most basic level.

Red China needs the industrial products and technology of the West, but she can pay for them only by exporting a volume of equal value to her imports. Since she is an agricultural country, she must rob her domestic economy to pay for such necessities as the annual wheat deficit, which runs to 5½ million tons annually. One of her chief exports is rice, even though rice is frequently in short supply for domestic needs. However, rice is a good earner of exchange, and Red China is eager to export it.

Could Red China earn U.S. dollars by selling us rice? We had a bumper crop of rice last year, running 32 percent above average. Of last year's annual production of 89.4 million bags (100 lbs.), 58½ million will be exported. Furthermore, slightly under half of these exports, 25 million bags, will be in the form of P.L. 480 "Food for Peace" shipments, practically in the form of a giveaway. When we have to give away more than a quarter of our own rice crop, it hardly seems that we would get any trade benefit by buying Red China's rice.

Another of the exports that Red China uses to get foreign exchange is soybeans. This is one of the high-value agricultural crops, as we know from our own experience. In fact, if you take all U.S. exports of soybeans—seed, oil, and cake—they form the No. 1 dollar earner for U.S. trade in agricultural commodities, higher than any other single crop. About a quarter of our soybean crop is exported. It would be ridiculous for the U.S. to consider importing Red Chinese soybeans.

Let us turn from the major agricultural crops to the possibility of importing raw materials. It is possible that we might find a ready market for Red Chinese coking coal, iron ore, and pig iron. It is estimated that there is a potential of 3 billion tons of ore underground in the northwest provinces. Red China does a lively trade in coke, ore, and pig iron with Japan, supplying Japan's basic industry.

Unfortunately, China's mines are unable to supply her own modest steel industry. In July and August of this year, the famed Anshan complex of steel mills in Manchuria—China's Pittsburgh—closed down for the first time in 70 years. The plants that operated all through the difficulties of World War II ran out of raw materials. The political troubles disrupted mining operations and transportation. Moreover, ports were shut down too. The Japanese complained that Red China did not meet her commitments in ore.

However, a more basic problem is that China is unable to exploit the vast mineral resources of the northwest provinces. Her policy frowns upon receiving foreign technical advice. She refuses to admit even Japanese mining engineers. We could hardly expect her to admit American technicians who could assist in expanding production. I doubt that Chinese ore will be on a U.S.-China trade agenda for a long time to come.

Perhaps the answer then is to buy Chinese light manufactured goods. I hardly think that such a policy would be acceptable in the United States. American industry in many basic fields is already hard pressed to meet the competition of cheap foreign labor. The last thing we need is a flood of cheap Communist goods. Moreover, when the Chinese are seeking exchange, cost is no object. Japan—Japan, of all places—recently suffered through a deluge of Red Chinese fountain pens and ball-point pens that were dumped on the market at half the Japanese cost. This is the other side of the story that Communists always meet their commercial payments promptly, in contrast to political obligations. For one thing, trade is a life-and-death matter for the survival of a Communist regime. For another, they are prepared to dump whatever is necessary on the world market to pay their bills.

The threat of dumping is particularly ominous in the field of textiles. Cotton goods are among the chief manufactured exports of Red China, even though she has to import raw cotton from Egypt to supply her mills. If we were to buy cheap cotton cloth from Red China, it would further endanger our own precarious textile industry. Furthermore, it would threaten our policy in Taiwan, where textile exports are the chief earner of exchange, making Taiwan self-sufficient. Taiwan adheres rigidly to the quota system, and does not endanger the U.S. industry. We could draw little such comfort from Red Chinese trading practices.

It is plain, then, that Red China has little to offer us in the way of hard business ventures, nor does she have the cash to put on the barrelhead. As a matter of fact, her agricultural exports have just about balanced the value of her imports; even though in the

past nine months her imports are down 14 percent, Red China's trade balance is running appropriately in the red.

As is widely known, Red China's foreign trade was based on a "tightened belt policy" and a favorable trade had always been registered in the past no matter how great its domestic difficulty was.

But the situation is different this year. According to statistics of international trade circles, Peking exported a total of 18,300,000 pounds sterling worth of goods to Britain in the first six months of this year, while it imported 28 million sterling pounds during the same period, representing an unfavorable balance of 9.7 million pounds.

Its trade with West Germany, in that period, resulted in a U.S. dollar equivalent of $113 million unfavorable balance, and her trade with Italy also registered a 6,000,000 pounds sterling deficit.

This reflects the seriousness of Peking's economic difficulties, caused by the decrease in industrial production as a result of the Red Guard rampage.

An examination of statistics concerning Peking's foreign trade volume in the past years bears evidence of its deteriorating economy.

Peking's trade volume in the past decade maintained an average of $3 billion per year. The trade volume hit $4.29 billion during the "great leap forward" in 1959, but plummeted to $2.67 billion when the leap flopped in 1962.

In recent years, the volume rose again because of Peking's effort to promote trade ties with Japan, West Germany and Italy. The figure climbed to $3.7 billion in 1965 and to $4.16 billion last year. But this rosy picture did not last long.

In any reciprocal trade arrangement we might make with Red China, there would be no reciprocity and no exchange. There would be no reciprocity because of the trade agenda I have just discussed. Red China can supply nothing that we need in quantity, indeed, nothing that would not be injurious to our own economy. She has no way of earning the exchange from us to buy our manufactured goods. The exchange which she earns from other countries is plummeting, and is needed to buy food. The only way Red China could trade with us is by barter.

By barter, of course, I mean a three-legged trade deal. We would sell Red China machinery, she would ship us soybeans, for example, which we don't want and can't use, and we would have to dump the soybeans somewhere on the world market, or give them away, thereby alienating the other soybean producers of the world. Let me give you a recent example of what this kind of a deal means for the private trader:

A Canadian, who once was widely known as one of the most successful traders with China, has recently returned from Canton. Three years ago he sold 88 English trucks to the Chinese Communists, and still had not been paid. When a friend asked him if he finally got payment, he said, no, but the Communists gave him 25,000 tons of soybeans. This would be several shiploads of soybeans, which he was hoping to dump in Japan. The Japanese payments would be in yen, rather than pounds sterling. It is doubtful that the Japanese would allow the rather large sum involved to be taken out of the country in one swoop. The trader therefore was hoping to convert his yen into pounds sterling at the rate of approximately 10 percent a month. Meanwhile, it must be remembered that the interest rate on export capital is about 10 percent on the London money market. I submit that this kind of a deal is not foreign trade at all. It is more like trying to break the bank at Monte Carlo.

Barter trade, on the whole, is not profitable from a business standpoint. That is why those who are seeking trade with Red China always demand government subsidies, or at least government guarantees. Barter trade isn't business; it's politics. It needs a subsidy to make it work. Such subsidies would contribute to the dollar outflow at a crucial moment in our trade posture. The financial world is just beginning to realize that, for the first time, the United States faces a trade deficit in hard commercial exports and imports. Let me explain:

In 1966, the U.S. balance-of-trade took a startling change: For the first time in recent history, our trade went into the red. The U.S. is now importing more goods than it exports.

Unfortunately, the sobering news of our trade deficit has been withheld from the business community and the people at large. The U.S. Department of Commerce has been publishing misleading trade statistics, thus covering up an alarming development. However, an even more alarming situation is indicated by this credibility gap: the drastic tariff concessions just concluded in Geneva, so crippling to key American industries such as textiles, are based upon the assumption of a trade surplus.

The credibility gap in trade statistics has only recently come to light. The Commerce Department's statistics show that in 1966 U.S. exports amounted to $29.42 billion, while imports were $25.65 billion. Those figures suggest that the U.S. had a trade *surplus* of $3.77 billion.

In actual fact, however, the Commerce Department deliberately includes exports authorized under governmentally subsidized programs, such as Public Law 480 shipments of food. Payments for such shipments are nominal, and cannot be converted into dollars. No reputable business accounting method would include free samples in reports of yearly sales. Yet the Commerce Department inflates the statistics of hard commercial sales with giveaways. A realistic accounting reduces the actual total of exports by 10 percent.

On the other side of the balance, the Commerce Department undervalues imports. It consistently reports import values on the basis of free-on-board (f.o.b.)—that is, the cost of the goods when put on shipboard at a foreign port. The reports of nearly every other country in the world realistically include the insurance and freight charges that must be paid when the ship reaches the domestic port. In the U.S., these additional charges must be paid in dollars that leave the country. When imports are figured on a true cost-insurance-freight basis (c.i.f.), the costs go at least 10% higher.

When the two adjustments are taken together, they constitute an error of 20%. Instead of the favorable trade balance of $3.77 billion reported by the Commerce Department, the 1966 trade *deficit* was $1.8 billion. The 1967 deficit, based on current projections, will at least be equal. The Commerce Department figures *conceal* not only a bad trade picture, but also help to obscure an important reason for our unfavorable balance-of-payments, and the gold drain.

This situation was uncovered in recent Senate hearings by the Senate Minority Leader, Senator Everett Dirksen, and the Senate Finance Committee Chairman, Senator Russell Long. The new calculations are based upon official but unpublicized U.S. government data. Thanks to the Senate hearings, the Commerce Department is beginning to publish c.i.f. statistics on a limited basis.

Now at first glance it might seem that trade with Red China would help improve our export picture. However, in the light of the facts I have just outlined, it would only make our trade picture worse. To import agricultural commodities would be financial insanity. To import cheap manufactured goods would undercut our own industry. To accept barter trade would require a heavy subsidy that would be detrimental to our poor balance of payments, and would contribute to the misleading inflation of export statistics.

Red Chinese trade, as I have pointed out, is already in a decline with her major trading partners. Moreover, her trade history shows a pattern of uncertainty and confusion, as waves of ideological fervor sweep over her operations. Originally, she traded almost exclusively with Communist bloc countries; then she realized that trade with the Soviets tends to be a one-way street. The Great Leap Forward of 1959 provided another boost in trade, followed by a great decline. In 1965, Red Chinese trade was at an all time high, and once more has fallen.

Trade agreements postulated upon such a foundation are meaningless. Here is direct evidence of ideological intervention and interference in the marketplace. The risks and uncertainties of Communist trade are the direct result of Communism.

I think that our Western allies, including Japan, are beginning to learn that lesson. Our policy of no trade at all is emerging as the correct one, and should be reaffirmed rather than weakened. Has it served to neutralize Red China as a power hostile to our interests in the Pacific? I believe that it has acted toward this end. The Chinese Communists have more bluster than effect. Even their contribution to the Vietnamese War has been limited mainly to deliveries of small weapons, logistical support for Soviet railroad shipments to Hanoi, and propaganda.

Any trade between the U.S. and Red China would perforce be small in volume. A large volume is not economically feasible, no matter what the policy. Whatever trade we engaged in would have little leverage to incline Communist leaders toward the West. The trade would be so small that it could never engage East and West in dialogue.

However, the psychological effects would be sobering indeed. A pro-trade policy would completely undercut our policy against seating Red China in the UN. In fact, I believe that many of the advocates of trade are actually seeking the recognition and seating of Red China as their principal aim.

Furthermore, any shift toward Peking in our trade policy would denigrate the position of Free China. Taiwan, through the efforts of the Chinese and our assistance, has been built up into a self-sustaining economy. Taiwan today has trade agreements with Japan to trade sugar for Japanese fertilizer, necessary for Taiwan's volcanic soil. Under another agreement, rice is exchanged for Japanese replacement machinery parts for Taiwan's textile industry. If there were a significant alteration in the Asian trade pattern, this delicate balance might be upset.

If profit is to be made for the businessman in the Far East, then I would suggest that he investigate investment in Taiwan. Within the past few months, three U.S. firms have invested about $150 million in Taiwan. Pfizer has built a large plant for general pharmaceuticals; Stanback has set up a large urea plant; and Gulf Oil has installed a gasoline cracking plant. The Gulf operation, by the way, has the capacity to refine up to 100 octane, and provides logistical support to the U.S. Air Force in the Pacific.

The growth of U.S. investment in Taiwan is made possible because of the Chinese government's enlightened and progressive 4-point development policies, designed to attract capital and generate economic strength. (1) Taiwan offers 100% tax relief for the first five years. (2) Taiwan allows the investor to repatriate 15% of these untaxed profits for the same period. (3) Taiwan has a favorable balance of trade, guaranteeing currency convertibility of those repatriated earnings. (4) Costs of operation in Taiwan are less than in Japan, even less than in Hong Kong.

If anyone wants to do business in the Orient, then I suggest that he go where business is conducted on a business-like

basis. These are terms that an American businessman can understand, and of which he can take advantage. At the same time, he will be strengthening the free world economy, and preserving freedom for both Taiwan and the United States.

I have been speaking mainly of the economic consequences of trade with Red China, but I do not want to imply that those consequences are the only reasons, or even the chief reasons, for reaffirming our trade policy with the Communists. Our national policy in this regard is basically a moral issue. As long as we accept the usurpation of power by the Communists in China as a permanent and legitimate situation, then we are cooperating in the enslavement of the millions of Chinese people. If we assist such a regime to consolidate its position, then we are hardening its grip on the people, not softening its grip.

Moreover, the consequences of a weak moral position on trading with the Communists are bound to catch up with us sooner or later. As I have already pointed out, the aid which Red China has furnished to North Vietnam is minimal, despite Communist boasting. On a practical level, the small level of trade which Red China could sustain with the U.S. would do little to help Hanoi continue aggressive acts against South Vietnam. Nevertheless, the principle of the thing is very clear: It is moral imbecility for the U.S. government to guarantee profits for businessmen trading with a Communist nation that is helping to kill American boys sent to Vietnam to defend freedom. Whatever the level of trade, Red China's intentions are clear. The lesson is spelled out in a short news dispatch from Sydney, Australia, a few weeks ago. Australia, as you know, is one of the principal countries engaged in the wheat trade with Red China. Here is how the lesson was brought out:

"PROTEST RED DEAL

"LONDON, September 21.—Australian wheat shipped to Communist China aboard British ships is being sent to North Vietnam, British sailors said today. Eight British merchant seamen quit their ship, the 7,457-ton Hopepeak, in Sydney, in protest over the alleged grain deal. The sailors arrived here last night." (The *New York Daily News*, September 22, 1967)

This dispatch I have just quoted is perhaps a more powerful argument than all the others I have touched upon, because it shows the essential hostility and duplicity of Communism. Trade with any Communist nation is morally wrong. Any kind of trade is strategic trade, for it strengthens the power of the regime and stabilizes its domestic unrest. It seems to me that it is incredibly naive to expect an enemy to reduce his hostility when he grows stronger.

The proof of this is of course the Soviet Union. Of the two Communist giants, the Soviet Union by far presents the most serious threat to our security. A totalitarian regime has the power to direct its capital toward armament and aggression. The Soviets have directed their economy towards this end. The Soviet Union today is richer, more powerful. Its leaders are more sophisticated, better educated, and more experienced in dealing with the outside world. The Soviet Communists say that they are out to destroy us, and their world-wide agitation backs up their words. They are too prudent to risk a nuclear confrontation with us as long as they know we have nuclear superiority, but they do not hesitate to engage our men and our finances on a third battlefield in Vietnam.

We are making a mistake whenever we trade with Communists, whether in China or in the Soviet Union. The Communist system needs trade to make up its own deficiencies; the system needs trade to make it work. Even token trading destroys our moral position, and weakens our will to survive. It will profit us nothing to trade with the whole world if we fail to survive.

THE 1967 ESEA AMENDMENTS: ANOTHER MILESTONE IN EDUCATION POLICY

Mr. KUCHEL. Mr. President, the 1967 amendments to the Elementary and Secondary Education Act mark a major milestone in the continuing expansion and improvement of Federal programs to aid our schools. All of the members of the Education Subcommittee deserve the enthusiastic thanks of the people, and of the Senate. This bill includes not only new programs but important innovations in providing funds for existing ones. I am particularly grateful that proposals which I have joined in offering, including one introduced by the distinguished subcommittee chairman, the senior Senator from Oregon, have been included.

I commend the committee for the timely inclusion of the provisions of S. 428, the Bilingual Education Act. I cosponsored that great piece of legislation when the distinguished senior Senator from Texas offered it earlier this year. It is a mark of the careful craftsmanship put into this bill that the subcommittee established the bilingual education program as a separate entity in the Elementary and Secondary Education Act. This program, which at last recognizes the significant intellectual assets possessed by Americans whose native tongue is other than English, is a new departure in our Federal aid program. It will offer a new cause for just pride in the great Spanish-speaking culture of the American Southwest, and particularly of my own State of California. It will offer new hope to millions of American children who otherwise might never understand either the true value of their native tongue and native heritage, nor achieve the easy conversance with modern learning which has become a necessity of life for our era. In years to come, I predict that this bold new approach to the problems of language differences in our great Nation will be remembered as a major contribution of this Congress. I want to urge the chairmen and those designated as conferees that no compromise be made which would weaken or remove this vital segment from the bill in any Senate-House conference.

Mr. President, we have been in session for many months this year. We may yet set a record for legislative longevity. But, while we deliberate, if that is the correct word, the world goes on. Most important, the nurturing of the treasured minds of our young children goes forward. Many school districts in this Nation have taken full advantage of the programs of Federal aid established by the Congress over the last 15 years. Not the least of them are large and growing school systems of cities like Los Angeles, San Francisco, Oakland, and San Diego in California. The delay in bringing out adequate appropriations for these programs this year has caused considerable hardship—not only on the administrators and teachers, but on local budget planners, and, may I add, on taxpayers as well. We can all be greatly encouraged by the provision in this bill authorizing the administration to execute grant agreements for the succeeding fiscal year at the current appropriation level of existing programs, when there is a delay in passing the new annual appropriations. The very existence of this authority should reduce uncertainty, and improve fiscal management at the State and local level. As a Republican member of the Senate Committee on Appropriations, I fully agree with this approach. It strikes exactly at the kind of administrative confusion in Federal programs which my party is pledged to eliminate. I believe it will find support on both sides of the aisle.

Many of the important features of this bill were proposed by my fellow Republicans. Indeed, the statement of the minority lists 23 amendments put forward by Republican committee members. They are to be warmly congratulated for their effort. Many of their improvements are highly significant—the provision of funds to improve school bus safety, the establishment of incentive grants to States to increase their efforts in educating disadvantaged children, and the ending of the practice of deducting amounts due under one program from those due under another. Three are those of many that deserve special mention. The ranking Republican member, the distinguished senior Senator from New York [Mr. JAVITS], and his colleagues, the distinguished Senator from Colorado [Mr. DOMINICK], the distinguished Senator from Arizona [Mr. FANNIN], the distinguished Senator from Michigan [Mr. GRIFFIN], the distinguished Senator from California [Mr. MURPHY], and the distinguished Senator from Vermont [Mr. PROUTY] all deserve high praise.

The minority amendment to provide $30 million in additional funds to establish projects to eliminate the increasing problem of school dropouts is a major and vital addition to this bill. This was the work of a man long concerned with the problems of the poor, the handicapped and the disadvantaged, my own distinguished colleague from California, Senator GEORGE MURPHY. He merits the enthusiastic congratulations of all Senators.

The Murphy amendment is an inseparable part of this bill and a major contribution to the Federal-aid-to-education program.

Mr. President, education is not only the Nation's second largest business. It is everybody's business. I am proud of the record of our Nation in providing a broad and freely available education to our people. From the Land Ordinance of 1785, through the Land Grant College Act in the time of Lincoln, to the ESEA of 1965, this has been a joint concern of all responsible public servants in both parties and at every level of government. It must remain so.

REPUBLICAN ACCOMPLISHMENTS

Mr. JAVITS. I want to thank the distinguished acting minority leader for his very fine words. As the ranking member of the Committee on Labor and Public Welfare, I would like to observe that what is unique about the recital of the amendments which the Republican mi-

nority had included in the bill, and with which I agree, is not a single Senator's name is attached to the listing of any of these amendments found on pages 186 and 187 of the committee report, although it is well known who sponsored each of them. The Senator has mentioned that. That is as it should be.

The reason is interesting. We on the minority side of the committee have acted very much together. This has been our strength. The Senator knows that the ideological views of minority members differ, perhaps not too widely, but they do differ. We have been extraordinarily cooperative with each other, because the existence of the amendments was preceded by a stage of consultation, development, and openminded willingness to change, in order to produce maximum support. These amendments are also a tribute to the majority, for without a fair attitude on the part of the majority none of the amendments could have been adopted.

It is a matter of particular pride to me, as the ranking minority member—first, because every person likes to be the ranking member of a good team, and this team is the best; second, it will be remembered on one occasion, not through any fault of his but because he could not help it, the Senator in charge of the bill on the floor had put through an education bill in which the majority lowered the boom on the minority so far as amendments were concerned and none—even of a minor or technical nature—were permitted. I do not think that any of us got over it. It was a salutary lesson. What has happened to the bill is one of creativity born of bipartisan collaboration, of which the Senator from California eloquently spoke.

Unfortunately, these things are not sensational. Tomorrow's headlines will feature something else, but it will not be remotely so important as what the Senator from California has said in this Chamber today. That is the most important reason why, to me, this is one of the most prideful committee assignments I have ever had, because of the creativity which has been developed in the pending bill by the Committee on Labor and Public Welfare, and in other areas such as health and even labor where we have obtained an extraordinary degree of unanimity of action.

The committee's efforts remind me of Arthur Vandenberg's finest hours as the Republican chairman of the Committee on Foreign Relations which was responsible for some of the most historic actions ever taken in Congress.

For all these reasons, I am very grateful to my colleague from California for his eloquent remarks.

Mr. KUCHEL. Let me say to the Senator from New York that it is really the other way around. I express my gratitude to my friend from New York, and to my colleagues on the minority side, as well as to my friend the chairman and Senator in charge of the bill on the majority side, who have demonstrated, I think, zeal for a good cause, for an American cause, that has flowered into a highly significant piece of legislation and represents, in my judgment, a great milestone.

Mr. JAVITS. One more word. I should like to point out that the ranking minority member of the Education Subcommittee is the Senator from Vermont [Mr. PROUTY]. Unhappily, he cannot be with us today, because of a momentary health problem.

I want to speak most feelingly about him. I am a member of the Education Subcommittee, too, as well as the Senator from Colorado [Mr. DOMINICK] and the Senator from California [Mr. MURPHY], who are now in the Chamber, and who have been extremely active in its work as members of the subcommittee.

However, I think we would all be derelict in our duty if we did not speak in glowing terms of the leadership of the Senator from Vermont [Mr. PROUTY], who is, unfortunately, unable to be with us today. He has done much creative and outstanding work on the subcommittee.

Mr. KUCHEL. The Senator from Vermont [Mr. PROUTY] is an excellent Senator and an excellent member of the subcommittee.

Mr. MORSE. Let me say to the Senator from California [Mr. KUCHEL] that as chairmar of the Subcommittee on Education and the Senator in charge of the pending bill, I associate myself with every word he has spoken on this subject.

I am glad to associate myself with this cause. We have demonstrated again the bipartisan nature of the committee and have verified what the Senator from New York [Mr. JAVITS] has just pointed out.

We would not have had this legislative miracle in the field of education over the past several years if we had not had this bipartisanship. We certainly would not have had it if members of the committee had placed their partisan affiliation first at any time.

Of course, I cannot stand before the Senate today and testify that at any time straight partisanship did not control our committee every once in a while. There were some times, in discussing the issues, when the discussion was tinged with party affiliation, but it did not last very long. We usually laughed each other out of such a position. I suppose the closest we came to it was the incident I reported on yesterday, in debate on the floor of the Senate, when we were dealing with section 3 of the bill as to whether 100-percent control should be in the Federal Government, or whether 100-percent control should be in the State department of education.

As I stated yesterday, it happened that the lineup on that was all the Republicans on one side, and all the Democrats on the other side, except for the chairman. As sometimes is my practice, I joined the Republicans, not because they were Republicans, but because I thought the Democratic majority in that case was wrong. I cast the vote that resulted in a tie vote and prevented passage of the motion which would have kept title III funds under the complete control of the Department of Health, Education, and Welfare.

With the next vote, I voted against the rare alinement in the committee, where all the Republicans wanted another program, which I thought was wrong. With that little flurry of what looked like a party alinement, it disappeared, and from then on we went back to work on a bipartisan bill; and that is what we have brought to the floor of the Senate.

There has been no mention of the individual Republicans on the committee responsible for this bipartisanship.

The Senator from New York [Mr. JAVITS] is the ranking minority member, followed by the Senator from Vermont [Mr. PROUTY], the Senator from Colorado [Mr. DOMINICK], the Senator from Arizona [Mr. FANNIN], the Senator from California [Mr. MURPHY], and the Senator from Michigan [Mr. GRIFFIN].

These men on the so-called Republican side of the committee, let me say, have given to me complete cooperation at all times, even when we were in disagreement on the merits of some particular amendment.

It should be made crystal clear that the Senator from California [Mr. KUCHEL] and the Senator from New York [Mr. JAVITS] are so right that here is a committee which has worked as a committee without partisanship dictating its legislative policy. The Senator from Colorado [Mr. DOMINICK] has just given me splendid cooperation, particularly when we were on the opposite side of an amendment, or an issue.

After all, it seems to me, that is the test, whether we have true bipartisanship—when we can disagree—and whether we still get the kind of cooperation which the Senator from Colorado [Mr. DOMINICK] always extends.

So I am glad, as the chairman of the subcommittee, and as the manager of this bill, to make these comments.

I close by asking, Mr. President, do you know why, more than anything else, this situation exists in the Committee on Labor and Public Welfare? Because of the chairman of the full committee, Senator HILL, of Alabama. I do not know how we could have a more judicious, sagacious, considerate man than Senator HILL. He is always willing to have our differences resolved by full discussion and hammering out our understandings.

The thing that impressed me is that on any issue there will be a number of Democrats and a number of Republicans on one side, and the same thing on the other side.

I wanted to pay this expression of thanks to the committee.

AMENDMENT OF ACT RELATING TO ACQUISITION OF WETLANDS FOR CONSERVATION OF MIGRATORY WATERFOWL

Mr. BARTLETT. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 480.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 480) to amend the act of October 4, 1961, relating to the acquisition of wetlands for conservation of migratory waterfowl, to

extend for an additional 8 years the period during which funds may be appropriated under that act, and for other purposes, which was:

In the amendment proposed by the Senate, strike out "funds" and insert "fund."

Mr. BARTLETT. Mr. President, I move that the Senate concur in the House amendment, which merely corrects a typographical error.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska.

The motion was agreed to.

Mr. BARTLETT. Again I thank the Senator from Oregon and the Senator from Colorado for their courtesy.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS ACT OF 1967

The Senate resumed the consideration of the bill (H.R. 7819) to strengthen and improve programs of assistance for elementary and secondary education by extending authority for allocation of funds to be used for education of Indian children and children in overseas dependents schools of the Department of Defense, by extending and amending the National Teacher Corps program, by providing assistance for comprehensive educational planning, and by improving programs of education for the handicapped; to improve authority for assistance in schools in federally impacted areas and areas suffering a major disaster; and for other purposes.

Mr. MORSE. Mr. President, I yield to the Senator from Colorado [Mr. DOMINICK].

Mr. DOMINICK. Mr. President, I appreciate the courtesy of the distinguished Senator from Oregon. Unfortunately, I did not have the opportunity to be here last Friday, when the Senator from Oregon made his opening statement on this bill. I felt obligated to honor a long-standing commitment in Colorado made, I might say, before it became evident that Congress would be in session in December. However, I am pleased that I was able to return yesterday for the votes on the amendments to this bill and I am particularly pleased to have been on the floor today to hear the remarks of the Senator from New York, both Senators from California, and the Senator from Oregon.

I think it can be truthfully said that the committee as a whole, under the very able leadership of the distinguished Senator from Oregon, has made some milestone approaches in this particular bill, in changing, amending, redirecting, and transferring parts of the Elementary and Secondary Education Act.

Some two and a half years ago, when the bill was first reported out of committee without a comma changed from the House bill, the Senator from Oregon and several other Senators had some fairly bitter discussions about this bill on the floor, and I participated freely in those discussions. It was my impression at that point that we had not been permitted—not through any fault of the Senator from Oregon, but through other pressures within the administration—an opportunity to really discuss the bill and to try to work out problems that seemed self-evident. The proof of the pudding was that not more than 2 weeks after the bill passed, we had to consider another bill in order to include Indian children within the legislation.

But this year, under the able leadership of the Senator from Oregon, we have, in fact, exercised a greater degree of oversight in the process of working out the elementary and secondary education bill, and have, in my opinion at least, made some improvements in redirecting its emphasis, by adding provisions, and trying to take care of some of the problems which the people who have actually been working in this field have brought to our attention over the past 2½ years.

I, of course, have been particularly pleased with the very great cooperation the Senator from Oregon gave in the inclusion of the incentive grant provision. The Office of Education was not very happy with it, or with any other type of incentive grant program, I am frank to admit; but it seemed to me that, as long as we were distributing taxpayers' funds to the various States for the strengthening of their educational systems, we should give some recognition to those States which have exerted the most local effort in support of their schools based on an effort index. We worked this amendment out over a period of time, we tried to take care of the objections of those who felt that perhaps this money would not go into the right place or help disadvantaged children, by including this as part B of title I and distributing the money under the title I formula. We took care of most of those objections, because it means additional funds will go into the districts where there is a heavier concentration of disadvantaged children and will be, therefore, of maximum help in promoting the cause that title I is designed to take care of.

Second, we had some problems in the impacted aid provision, because of the type of administrative rulemaking that has gone on under which, in the State of the Senator from Oregon and my own, we found that the money being paid to counties in lieu of taxes for national forests and the like was being deducted from the amount of impacted aid being distributed to those areas, even though this was not the intent of the law.

We have that changed around now so that the "in lieu of taxes" payments will be continued in the counties, and where the counties are affected by Federal impaction, they will get the same kind of impacted aid support as if they received no "in lieu of taxes" payments. This is a step in the right direction.

The decision of the Senator from Oregon in formulating an Indian Education Subcommittee is, in my opinion, of tremendous significance, because it will give us an opportunity over a period of time to be able to study the impact of the education system on the Indians and whether they are able to bring up their children to fit into the pattern of living we have in this country.

It has been my experience over a period of years that the Indians, by being furnished schools on the reservations by the Bureau of Indian Affairs, are in fact, being segregated from the rest of the American population at the very time when all of us are trying to achieve an integration pattern as far as minority groups are concerned. I believe the effort that can be made in the Indian Subcommittee will be of substantial importance in working out these problems as time goes on. I look forward to working and serving on this subcommittee.

I want to express my appreciation for the tremendous cooperation which the minority members of the committee have received from the distinguished Senator from Oregon, the leadership he has displayed, and the cooperation that I, as a member on the subcommittee, have received from all Members on the majority and minority sides, particularly the distinguished Senators from New York, Vermont, Arizona, California, and Michigan. They have been very, very helpful all the way through in putting up imaginative ideas, discussing this matter in a nonpartisan way, and being able to include many of them in the framework of the bill.

I am sure, as time goes on, other problems will arise. We cannot have a bill with the amount of major impact in every area of the country that this program has without having problems arise. The oversight work that has gone on in the past, that will go on in the future, will be of help in working these problems out.

One of the major problems which we have not been able to fully solve, but which we must, is to get the appropriations enacted soon enough so the school administrators will be able to learn the amount of funds they are going to receive so they can plan early enough in the school year for wise utilization of the funds. This is one of the major problems we have to work out though great steps have been made in the future funding aspects of the Senate bill.

Mr. MORSE. I thank the Senator from Colorado very much. The comments go to the full committee, and the full committee deserves the comments he has made. I thank him very much.

Mr. JAVITS. Mr. President, I appreciate the tremendously constructive work and the very helpful positions and the kind of acknowledgment just made by the Senator from Colorado.

Mr. YARBOROUGH. Mr. President, I wish to state that the courtesy and cooperation of the distinguished chairman of the committee has been extended not only to members of the minority, but to members of the majority party as well.

I concur in the remarks made a few moments ago by the distinguished senior Senator from New York [Mr. JAVITS] concerning this entire Labor and Public Welfare Committee. I consider it my greatest privilege in the Senate to be a member of that committee, because it is a committee of ideas, a committee moving into new fields, and a committee planning for the future. I think more of the constructive legislation considered by the Senate comes out of that committee than any other, because it includes the Subcommittee on Health, the Subcom-

mittee on Education, the Veterans' Affairs Subcommittee, the Labor Subcommittee on Employment, Manpower, and Poverty, and the Migratory Labor Subcommittee. This year, for the first time, the Special Subcommittee on Bilingual Education was created, to hold hearings on the Bilingual Education Act, which has now been incorporated by amendment into the pending legislation.

That illustrates again how this committee moves forward with the cooperation of members of both parties. For example, the Bilingual Education Act, now incorporated into this bill, was cosponsored by both Senators from New York. My colleague from Texas [Mr. TOWER] cosponsored the bill. Both Senators from California [Mr. KUCHEL and Mr. MURPHY], the latter of whom I see on the floor, participated in the hearings in Los Angeles on the bill which they also cosponsored.

This is an illustration of the bipartisan support of the members of this committee for progressive and innovative legislation.

That, Mr. President, is the kind of creative cooperation we have had under the leadership of the Senator from Oregon. It is a pleasure to see American children of this generation receiving better opportunities because of his work and his leadership.

Mr. MORSE. I thank the Senator.

Mr. MONTOYA. Mr. President, the Elementary and Secondary Education Act has made a great contribution to the education of the children of New Mexico. Last summer, when I was in my home State for hearings, I could see the results in the most tangible form.

I am most pleased that the Congress is increasing the funds for these programs, for they are sorely needed. It is my hope that the full amount authorized for each of the succeeding years will be appropriated.

In particular, I am gratified that title 7 has been added to, and provided for, in this bill. As you know, this title provides for aid to bilingual education. It provides a solution to the problems of those children who are educationally disadvantaged because of their inability to speak English.

Mr. President, a major, untapped human resource cries out for attention in our society—the Spanish-speaking youngster. This is an age when people are finally being recognized as a resource to match and perhaps surpass any mineral in the ground.

In our Southwest in particular, as in other areas of the Nation, we have passed up a unique national oportunity by not opening all the doors wide to the Spanish-speaking youngster. We have not used their language as the asset it really is.

These young people are changing before our very eyes. They have desires and dreams now that they never possessed before. We have held out the prospect of a better future to them, and they are grasping for it.

Their commitment to America and her ideals is still strong. Their military records are second to none. As they return home, they form civic organizations that show community interest and ethnic pride that must be recognized by our country.

These young people have not taken to the streets, mainly because they seek opportunity within the framework of American life, rather than a chance to destroy it. We must make their lives meaningful through opportunity and a recognition of the integral worth of their national heritage. This includes respect for, and use of, the Spanish language.

Education is, of course, the key, as it is to most problems of this sort. The dropout rate for Spanish-speaking youngsters is appalling. It is one of the root causes of the problems confronting us now.

We must cut that dropout rate. If we do not, then the consequences our Nation faces are terrible. Demagogs await in the wings for us to falter.

We must take advantage of the language pluralism that exists in our Southwest. But it must be constructive pluralism. Comprehensive bilingual education programs are, to my way of thinking, one way we can give to all the best of both worlds in terms of language, culture, and cooperation in daily life.

Therefore, I have joined several of my distinguished colleagues in sponsoring legislation which will provide for more of such programs to those children in those areas where they are most needed.

To this end I have joined with a full heart in the fight to get more of these programs going where they are most needed. If we will but use the unique linguisitic talents of these people as an asset, it can benefit our Nation enormously, as well as broaden the opportunities now available.

Finally, ignorance of others and lack of communication between them only breeds more of the same. Bringing youngsters in contact with another culture and language can only serve to create better communitcations rather than foster apartness, which has too often been the case in the past.

Many of these children of Spanish-speaking background are concentrated in low-income school districts. The programs envisioned in this bill will finance programs that will reach out to them in the districts where they now are. Teachers will be trained under this program as well.

We must bring the Spanish-speaking student into the mainstream of American education, making him feel that his language is an asset rather than a liability.

We must turn a student's knowledge of Spanish into an added tool and gift which can be shared with non-Spanish-speaking students. This bill is a step in that direction.

For too long this knowledge of Spanish has been a handicap for too many children. It does not and should not have to remain so. By means of bills such as this we can turn it into an asset. An asset, I might add, that our country is in increasing need of.

Our Spanish-speaking community in this country can and must serve our Nation as an economic and cultural bridge to Latin America.

Castro has shown us that we had better pay heed to our fencemending and economic well-being south of our borders. These Communists from Cuba can move throughout Latin America, melting linguistically into the population.

If we move down there as we have in the past, we will stand out and be singled out, rather than blend in and be accepted as those who are friends rather than exploiters.

Our path is clear, and our choices are brightly delineated. The required investment is minimal, compared to sums we invest in so many other fields.

The Spanish-speaking citizens of our Southwest are astir, and we must take heed of those stirrings. Not to do so would be the height of folly and the depth of ignorance of legitimate aspirations.

Up to now, these citizens have shown marvelous restraint, coupling it with an often stated and always observed drive for accomplishment through channels of opportunity.

Let us open up yet another series of these channels through this bill. Justice requires it, necessity demands it, and conscience reminds us that we must do this.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 830) to prohibit age discrimination in employment, with an amendment, in which it requested the concurrence of the Senate.

AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967

Mr. YARBOROUGH. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 830.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 830) to prohibit age discrimination in employment which was to strike out all after the enacting clause and insert:

That this Act may be cited as the "Age Discrimination in Employment Act of 1967".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby finds and declares that—

(1) in the face of rising productivity and affluence, older workers find themselves disadvantaged in their efforts to retain employment, and especially to regain employment when displaced from jobs;

(2) the setting of arbitrary age limits regardless of potential for job performance has become a common practice, and certain otherwise desirable practices may work to the disadvantage of older persons;

(3) the incidence of unemployment, especially long-term unemployment with resultant deterioration of skill, morale, and employer acceptability is, relative to the younger ages, high among older workers; their numbers are great and growing; and their employment problems grave;

(4) the existence in industries affecting commerce of arbitrary discrimination in employment because of age, burdens commerce and the free flow of goods in commerce.

(b) It is therefore the purpose of this Act to promote employment of older persons based on their ability rather than age; to

prohibit arbitrary age discrimination in employment; to help employers and workers find ways of meeting problems arising from the impact of age on employment.

EDUCATION AND RESEARCH PROGRAM

SEC. 3. (a) The Secretary of Labor shall undertake studies and provide information to labor unions, management, and the general public concerning the needs and abilities of older workers, and their potentials for continued employment and contribution to the economy. In order to achieve the purposes of this Act, the Secretary of Labor shall carry on a continuing program of education and information, under which he may, among other measures—

(1) undertake research, and promote research, with a view to reducing barriers to the employment of older persons, and the promotion of measures for utilizing their skills;

(2) publish and otherwise make available to employers, professional societies, the various media of communication, and other interested persons the findings of studies and other materials for the promotion of employment;

(3) foster through the public employment service system and through cooperative effort the development of facilities of public and private agencies for expanding the opportunities and potentials of older persons;

(4) sponsor and assist State and community informational and educational programs.

(b) Not later than six months after the effective date of this Act, the Secretary shall recommend to the Congress any measures he may deem desirable to change the lower or upper age limits set forth in section 12.

PROHIBITION OF AGE DISCRIMINATION

SEC. 4. (a) It shall be unlawful for an employer—

(1) to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age;

(2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's age; or

(3) to reduce the wage rate of any employee in order to comply with this Act.

(b) It shall be unlawful for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of such individual's age, or to classify or refer for employment any individual on the basis of such individual's age.

(c) It shall be unlawful for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his age;

(2) to limit, segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's age;

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) It shall be unlawful for an employer to discriminate against any of his employees or applicants for employment, for an employment agency to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because such individual, member, or applicant for membership has opposed any practice made unlawful by this section, or because such individual, member, or applicant for membership has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or litigation under this Act.

(e) It shall be unlawful for an employer, labor organization, or employment agency to print or publish, or cause to be printed or published, any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification, or discrimination, based on age.

(f) It shall not be unlawful for an employer, employment agency, or labor organization—

(1) to take any action otherwise prohibited under subsections (a), (b), (c), or (e) of this section where age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business, or where the differentiation is based on reasonable factors other than age;

(2) to observe the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this Act, except that no such employee benefit plan shall excuse the failure to hire any individual; or

(3) to discharge or otherwise discipline an individual for good cause.

STUDY BY SECRETARY OF LABOR

SEC. 5. The Secretary of Labor is directed to undertake an appropriate study of institutional and other arrangements giving rise to involuntary retirement, and report his findings and any appropriate legislative recommendations to the President and to the Congress.

ADMINISTRATION

SEC. 6. The Secretary shall have the power—

(a) to make delegations, to appoint such agents and employees, and to pay for technical assistance on a fee for service basis, as he deems necessary to assist him in the performance of his functions under this Act;

(b) to cooperate with regional, State, local, and other agencies, and to cooperate with and furnish technical assistance to employers, labor organizations, and employment agencies to aid in effectuating the purposes of this Act.

RECORDKEEPING, INVESTIGATION, AND ENFORCEMENT

SEC. 7. (a) The Secretary shall have the power to make investigations and require the keeping of records necessary or appropriate for the administration of this Act in accordance with the powers and procedures provided in sections 9 and 11 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 209 and 211).

(b) The provisions of this Act shall be enforced in accordance with the powers, remedies, and procedures provided in sections 11(b), 16 (except for subsection (a) thereof), and 17 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 211(b), 216, 217), and subsection (c) of this section. Any act prohibited under section 4 of this Act shall be deemed to be a prohibited act under section 15 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 215). Amounts owing to a person as a result of a violation of this Act shall be deemed to be unpaid minimum wages or unpaid overtime compensation for purposes of sections 16 and 17 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 216, 217): *Provided*, That liquidated damages shall be payable only in cases of willful violations of this Act. In any action brought to enforce this Act the court shall have jurisdiction to grant such legal or equitable relief as may be appropriate to effectuate the purposes of this Act, including without limitation judgments compelling employment, reinstatement or promotion, or enforcing the liability for amounts deemed to be unpaid minimum wages or unpaid overtime compensation under this section. Before instituting any action under this section, the Secretary shall attempt to eliminate the discriminatory practice or practices alleged, and to effect voluntary compliance with the requirements of this Act through informal methods of conciliation, conference, and persuasion.

(c) Any person aggrieved may bring a civil action in any court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this Act: *Provided*, That the right of any person to bring such action shall terminate upon the commencement of an action by the Secretary to enforce the right of such employee under this Act.

(d) No civil action may be commenced by any person under this section until the person has given the Secretary not less than sixty days' notice of an intent to file such action. Upon receiving such notice, the Secretary shall promptly seek to eliminate any alleged unlawful practice by informal methods of conciliation, conference, and persuasion.

(e)(1) Any suit brought to enforce any cause of action granted by this Act shall be forever barred unless commenced within two years after the cause of action accrued, except that a cause of action arising out of a willful violation may be commenced within three years after the cause action accrued.

(2) In any action or proceeding under this Act, no employer, labor organization, or employment agency shall be subject to any liability based on any act or omission if such employer, labor organization, or employment agency pleads and proves that the act or omission complained of was in good faith in conformity with and in reliance on any written administrative regulation, order, ruling, approval, or interpretation of the Secretary of Labor, or any administrative practice or enforcement policy of the Secretary of Labor with respect to the class of employers, labor organizations, or employment agencies to which such employer, labor organization, or employment agency belonged. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that after such act or omission, such administrative regulation, order, ruling, approval, interpretation, practice, or enforcement policy is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect.

NOTICES TO BE POSTED

SEC. 8. Every employer, employment agency, and labor organization shall post and keep posted in conspicuous places upon its premises a notice to be prepared or approved by the Secretary setting forth information as the Secretary deems appropriate to effectuate the purposes of this Act.

RULES AND REGULATIONS

SEC. 9. The Secretary of Labor may issue such rules and regulations as he may consider necessary or appropriate for carrying out this Act, and may establish such reasonable exemptions to and from any or all provisions of this Act as he may find necessary and proper in the public interest.

CRIMINAL PENALTIES

SEC. 10. Whoever shall forcibly resist, oppose, impede, intimidate, or interfere, with a duly authorized representative of the Secretary while he is engaged in the performance of duties under this Act shall be punished by a fine of not more than $500 or by imprisonment for not more than one year, or by both: *Provided, however*, That no person shall be imprisoned under this section ex-

cept when there has been a prior conviction hereunder.

DEFINITIONS

SEC. 11. For the purposes of this Act—

(a) The term "person" means one or more individuals, partnerships, associations, labor organizations, corporations, business trusts, legal representatives, or any organized groups of persons.

(b) The term "employer" means a person engaged in an industry affecting commerce who has twenty-five or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year: *Provided*, That prior to June 30, 1968, employers having fewer than fifty employees shall not be considered employers. The term also means any agent of such a person, but such term does not include the United States, a corporation wholly owned by the Government of the United States, or a State or political subdivision thereof.

(c) The term "employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer and includes an agent of such a person; but shall not include an agency of the United States, or an agency of a State or political subdivision of a State, except that such term shall include the United States Employment Service and the system of State and local employment services receiving Federal assistance.

(d) The term "labor organization" means a labor organization engaged in an industry affecting commerce, and any agent of such an organization, and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

(e) A labor organization shall be deemed to be engaged in an industry affecting commerce if (1) it maintains or operates a hiring hall or hiring office which procures employees for an employer or procures for employees opportunities to work for an employer, or (2) the number of its members (or, where it is a labor organization composed of other labor organizations or their representatives, if the aggregate number of the members of such other labor organization) is fifty or more prior to July 1, 1968, or twenty-five or more on or after July 1, 1968, and such labor organization—

(1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended; or

(2) although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce; or

(3) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or

(4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or

(5) is a conference, general committee, joint or system board, or joint council subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection.

(f) The term "employee" means an individual employed by any employer.

(g) The term "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.

(h) The term "industry affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor-Management Reporting and Disclosure Act of 1959.

(i) The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act.

LIMITATION

SEC. 12. The prohibitions in this Act shall be limited to individuals who are at least forty years of age but less than sixty-five years of age.

ANNUAL REPORT

SEC. 13. The Secretary shall submit annually in January a report to the Congress covering his activities for the preceding year and including such information, data, and recommendations for further legislation in connection with the matters covered by this Act as he may find advisable. Such report shall contain an evaluation and appraisal by the Secretary of the effect of the minimum and maximum ages established by this Act, together with his recommendations to the Congress. In making such evaluation and appraisal, the Secretary shall take into consideration any changes which may have occurred in the general age level of the population, the effect of the Act upon workers not covered by its provisions, and such other factors as he may deem pertinent.

FEDERAL-STATE RELATIONSHIP

SEC. 14. (a) Nothing in this Act shall affect the jurisdiction of any agency of any State performing like functions with regard to discriminatory employment practices on account of age except that upon commencement of action under this Act such action shall supersede any State action.

(b) In the case of an alleged unlawful practice occurring in a State which has a law prohibiting discrimination in employment because of age and establishing or authorizing a State authority to grant or seek relief from such discriminatory practice, no suit may be brought under section 7 of this Act before the expiration of sixty days after proceedings have been commenced under the State law, unless such proceedings have been earlier terminated: *Provided*, That such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State law. If any requirement for the commencement of such proceedings is imposed by a State authority other than a requirement of the filing of a written and signed statement of the facts upon which the proceeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered mail to the appropriate State authority.

EFFECTIVE DATE

SEC. 15. This Act shall become effective one hundred and eighty days after enactment, except (a) that the Secretary of Labor may extend the delay in effective date of any provision of this Act up to an additional ninety days thereafter if he finds that such time is necessary in permitting adjustments to the provisions hereof, and (b) that on or after the date of enactment the Secretary of Labor is authorized to issue such rules and regulations as may be necessary to carry out its provisions.

APPROPRIATIONS

SEC. 16. There are hereby authorized to be appropriated such sums as may be necessary to carry out this Act.

Mr. YARBOROUGH. Mr. President, I move that the Senate concur in the amendment of the House of Representatives, with the following amendments, which I now send to the desk.

The PRESIDING OFFICER. The amendments will be stated.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with, and that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments proposed to be considered en bloc by the Senator from Texas [Mr. YARBOROUGH] are as follows:

On page 8, beginning with line 21 and continuing through line 2 on page 9, strike all of subsection (d), and substitute in lieu thereof the following:

"(d) No civil action may be commenced by any individual under this section until the individual has given the Secretary not less than sixty days' notice of an intent to file such action. Such notice shall be filed—

"(1) within one hundred and eighty days after the alleged unlawful practice occurred, or

"(2) in a case to which section 14(b) applies, within three hundred days after the alleged unlawful practice occurred or within thirty days after receipt by the individual of notice of termination of proceedings under State law, whichever is earlier.

Upon receiving a notice of intent to sue, the Secretary shall promptly notify all persons named therein as prospective defendants in the action and shall promptly seek to eliminate any alleged unlawful practice by informal methods of conciliation, conference, and persuasion."

On page 9, beginning with line 3 and continuing through line 2 on page 10, strike all of subsection (e) and substitute in lieu thereof the following:

"(e) Sections 6 and 10 of the Portal-to-Portal Act of 1947 shall apply to actions under this Act."

On page 10, line 10, strike the word "The" after "SEC. 9." and insert in lieu thereof the following:

"In accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, the".

On page 17, line 5, strike the word "sums" and insert in lieu thereof the following: "sums, not in excess of $3,000,000 for any fiscal year,"

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

Mr. YARBOROUGH. Mr. President, these proposed amendments to the House amendment are basically amendments offered in the committee by the distinguished senior Senator from New York, which were adopted and made a part of the Senate bill. They were stricken out by the amendment of the House of Representatives; but we are now asking that the Senate restore those amendments, which were in the bill the first time, with the expectation that the House will concur in its amendment, as amended.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. YARBOROUGH. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, the substance of the amendments which, if favorably acted upon by the Senate will be sent back to the House of Representatives with the expectation that they will be agreed to by the House, is that they are intended to answer some of the disquiet in American business—Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from New York may proceed.

Mr. JAVITS. This bill, which deals with age discrimination in employment, deals with some of the concerns of American business that the legislation would be open ended. These amendments are expressly designed to fix reasonable standards for regulations, subject to the Administrative Procedure Act, limiting—at the request of the Senator from Colorado [Mr. DOMINICK]—the amount that can be appropriated for any fiscal year for administration, so that there may be assurance that the bill will be tight and well considered, keeping also in mind the practical problems of administration, and will answer some of the concerns which have been expressed about it.

Mr. President, this is one of the most desirable pieces of legislation with which we have ever dealt, concerning, as everyone knows, a very grave problem in American community life—the employment of older workers. I hope very much that the Senate will act affirmatively, as requested by the chairman of the subcommittee [Mr. YARBOROUGH].

Mr. YARBOROUGH. Mr. President, I commend the distinguished senior Senator from New York for his great contribution to this measure. He has been introducing bills such as this for years.

We are assured that the House will pass the bill; thus making this the first bill passed by the U.S. Congress to prevent discrimination in employment on account of age.

I introduced this bill, cosponsored by the distinguished Senator from New York and a number of others. There have been a number of amendments agreed to by our committee, the Subcommittee on Labor, and by the full Committee on Labor and Public Welfare, all of which, I think, were good amendments, as the Senator from New York has stated, I am sure they tighten the bill up and improve it.

I believe this is another example of the creativity of the committee. This is landmark legislation, a bill of the first importance to that vast body of Americans—they number, I believe, some 46 million in this country now—between 40 and 65 years of age, who are finding employment very difficult to find, regardless of their qualifications. This bill is to give them a fair chance, based on their qualifications. It does not give a person preference because of age; it merely says that if they have equal qualifications, they will have equal treatment.

It will serve to keep an employee from being arbitrarily barred from employment because he is over 40, over 45, or over 50 years of age. As I say, it is landmark legislation.

Our fellow Senators from both sides of the aisle are to be congratulated. The Senator from Colorado [Mr. DOMINICK] offered a valuable amendment. I thank all of those who have contributed so much to this legislation.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. YARBOROUGH. I yield to the Senator from West Virginia.

Mr. MORSE. I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I am grateful that the distinguished Senator from Oregon has yielded to the distinguished Senators from Texas [Mr. YARBOROUGH] and New York [Mr. JAVITS], and now to me so we may have the opportunity to speak on the vital legislation being discussed.

The Special Committee on Aging has, as Senators know, several subcommittees that cover particular matters that affect the aged in our country.

In our Subcommittee on Employment and Retirement Incomes, which I chair, we have had hearings on this subject of gainful employment for elderly citizens within our society. I ask unanimous consent to have printed in the RECORD excerpts from a report issued as a result of these hearings.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

EXCERPTS FROM THE REPORT OF AUGUST 1964 BY SENATE SPECIAL COMMITTEE ON AGING, ENTITLED "INCREASING EMPLOYMENT OPPORTUNITIES FOR THE ELDERLY"

INTRODUCTION

One important means of improving the economic position of America's senior citizens is to make it possible for those to work who can work and want to work. At present, one-third of the total income of older Americans comes from their employment. This belies the stereotype of idleness, dependency, and unproductivity which is too often associated with these Americans.

Dr. Donald P. Kent, Director of the U.S. Office of Aging, has said:

"We have a vested interest as a society in keeping (older) people employed not only from the viewpoint of their own personal well-being but from the national viewpoint. If we had to replace what they are now getting from earnings by some kind of public contribution this would be an enormous sum."

Studies have shown that working, at least part-time, benefits the senior citizen not only financially but in many other ways as well. It prevents a feeling of uselessness and futility. It takes him out of his loneliness and isolation and puts him into the "mainstream of life." It benefits both his psychological outlook and his physical health.

An authority in the field of geriatrics, Dr. Edward F. Bortz, has said:

"Older citizens who are actively employed will be more healthy and better adjusted and consequently a less likely drain on the Public Treasury. Instead of being consumers, they will be producers and taxpayers. They will take pride in being self-supporting and in being able to provide for their own needs. It can be predicted that healthy and alert senior citizens, well utilized by the community, will make far fewer demands for medical services."

* * * * *

As a basis for making recommendations on increasing employment opportunities for the elderly our Subcommittee on Employment and Retirement Incomes held three hearings, as follows:

December 19, 1963: Washington, D.C.

January 10, 1964: Los Angeles, Calif.

January 13, 1964: San Francisco, Calif.

The recommendations below are based upon a report recently submitted by that subcommittee to this committee.

Recommendation No. 1. *The Committee recommends that increased appropriations be made to the U.S. Employment Service to improve and expand its services for older workers in local employment offices, and to establish a Part-Time Employment Service.*

* * * * *

Recommendation No. 2. *The Committee recommends that Congress enact legislation authorizing a new program of grants for experimental and demonstration projects to stimulate needed employment opportunities for older Americans. The Federal Government through the Department of Labor would provide funds on a matching basis to State and local governments or approved nonprofit institutions for experiments in the use of elderly persons in providing needed services.*

* * * * *

Recommendation No. 3. *The Committee recommends that the present complex formula of permissive earnings for recepients of old-age assistance be eliminated in favor of a simple allowance of a certain amount per month of earnings by recipients without reduction of their grants.*

* * * * *

Recommendation No. 4. *The Committee recommends that the amount of earnings which can be received by a recipient of old-age insurance benefits without loss of benefits be increased to a more realistic level, and that the present complex formula be eliminated.*

* * * * *

Recommendation No. 5. *The Committee recommends that a modest annual appropriation be authorized for use by the Bureau of Employment Security in assisting with the expenses of volunteer community efforts to find employment for older workers.*

* * * * *

Recommendation No. 6. *The Committee recommends that Congress enact a resolution designating a week in each year as "National Employ the Older Worker Week."*

Mr. YARBOROUGH. I thank the distinguished Senator from West Virginia. As a member of the full Committee on Aging of the Senate, I, too, have participated in those hearings, and we have learned much, on that Committee, of the problems of the tens of millions of Americans who are barred arbitrarily from employment on account of age, and not because of inability to do the job.

Mr. MORSE. Mr. President, I wish to say to the Senator from Texas and the Senator from New York, on the basis of my membership in the Special Committee on Aging, that I am an enthusiastic supporter of this bill, as they know.

I think that this measure is really a companion bill, in a sense, to the action taken in the Senate the other day, when we supported the amendment to the social security law that seeks to give the aged, on retirement, the right to earn up to $2,400 a year before there is any deduction from their social security payments.

The treatment of the aged in this country is one of the great derelictions of the Congress of the United States. I think that we have simply walked out time and time again on our moral obligations to the aged. After all, this great economy of ours is strong enough to give the opportunities to the aged which the social security benefit provisions, to

which I have just alluded, and also the bill that the Senator from Texas is making a report on to the Senate today involve.

I think that we just have to be more fair and equitable and considerate of the aged of this country from the standpoint of economic factors than we have been. The aged are entitled, in my judgment, as a matter of right—and I use that term advisedly—to have the opportunity to live out their lives in decency. And we are not doing that under the social security law as it presently exists. We are not doing it on the basis of the discrimination that we know exists throughout American industry.

Employers generally discriminate against the aged. Their hiring limitation, in fact, is down in the forties. If a man is 45 and seeks to get a job in general industry, the odds are against him as long as the employer can get someone who is in his thirties.

I think that the Federal Government has a partnership obligation with American industry in this respect. That is why I am such a strong supporter of the bill the Senator is reporting on, as I was of the proposal for modification of the social security law to permit the aged to earn $2,400 a year before there would be any deduction from their social security benefits.

I congratulate the Senator from Texas and the Senator from New York.

Mr. YARBOROUGH. Mr. President, I thank the Senator from Oregon.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas [Mr. YARBOROUGH] to concur in the House amendment with Senate amendments.

The motion was agreed to.

MESSAGE FROM THE HOUSE—ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills and joint resolutions, and they were signed by the Vice President:

S. 320. An act to authorize the Secretary of the Army to release certain use restrictions on a tract of land in the State of North Carolina in order that such land may be used in connection with a proposed water supply lake, and for other purposes;

S. 343. An act to provide that the Federal office building to be constructed in Detroit, Mich., shall be named the "Patrick V. McNamara Federal Office Building" in memory of the late Patrick V. McNamara, a U.S. Senator from the State of Michigan from 1955 to 1966;

S. 1136. An act to amend section 9 of the act of May 22, 1928 (45 Stat. 702), as amended and supplemented (16 U.S.C. 581h), relating to surveys of timber and other forest resources of the United States, and for other purposes;

S. 2195. An act to amend the marketing quota provisions of the Agricultural Adjustment Act of 1938, as amended;

S.J. Res. 35. Joint resolution consenting to an extension and renewal of the interstate compact to conserve oil and gas; and

S.J. Res. 101. Joint resolution amending title XI of the Merchant Marine Act, 1936, to authorize the Secretary of Commerce to guarantee certain loans made to the National Maritime Historical Society for the purpose of restoring and returning to the United States the last surviving American square-rigged merchant ship, the *Kaiulani*, and for other purposes.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS ACT OF 1967

The Senate resumed the consideration of the bill (H.R. 7819) to strengthen and improve programs of assistance for elementary and secondary education by extending authority for allocation of funds to be used for education of Indian children and children in overseas dependents schools of the Department of Defense, by extending and amending the National Teacher Corps program, by providing programs of education for the handicapped; to improve authority for assistance in schools in federally impacted areas and areas suffering a major disaster; and for other purposes.

AMENDMENT NO. 488

Mr. BYRD of Virginia. Mr. President, I submit an amendment on the pending legislation, H.R. 7819.

I ask unanimous consent that the amendment be printed and that it lie on the table.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

Mr. BYRD of Virginia. Mr. President, I do not plan to call my amendment up at the present time. My amendment would delete lines 6 through 17 on page 135 of the pending bill.

The legislation pending before the Senate would provide that in the event Congress does not appropriate money by May 15 of a particular year, the Commissioner of Education may nevertheless execute grant agreements, and such grant agreements shall be obligations of the United States. This would permit roughly $2.7 billion to be obligated by a member of the executive branch of the Government, which amounts have not been appropriated by Congress.

At the appropriate time, I would like to engage in a colloquy with the Senator from Oregon in regard to the actual costs of the program along the lines we discussed on yesterday. However, I am still not clear as to some of the figures. If the Senator from Oregon will indicate a convenient time for him to engage in such colloquy, I will proceed accordingly.

Mr. MORSE. I certainly will provide a time. I would want my friend, the Senator from Ohio [Mr. LAUSCHE] on the floor at the same time, because he has a vested interest in that colloquy, too.

I think that the corrections we made after we received the figures from the Department yesterday are helpful. If further clarification is needed, we are certainly going to get that clarification into the RECORD. So, we will have a conference sometime this afternoon, and in the course of that conference the three of us will work out exactly what we want to get into the RECORD for legislative history. We can then come to the floor and make that history.

Mr. BYRD of Virginia. Mr. President, the information which was made available by the Department yesterday and which the Senator from Oregon caused to have printed in the RECORD is not in a form in which it can be compared with the pending bill.

Mr. MORSE. We will get it in that form, and I hope that counsel will take note of what the Senator from Virginia has just said. Before we have our colloquy, we will have the comparative figures.

I cannot possibly, any more than any other Senator, carry in my head the myriad of fiscal statistics involved in a bill as long as the pending bill.

I can answer the general questions on total amounts. However, I am not a computer, and I do not have in my mind the details of all the tabulations involved in these volumes of reports on our desks. I can always get the information that a Senator needs.

Mr. BYRD of Virginia. Mr. President, I thank the Senator.

Mr. MURPHY. Mr. President, first, I want to congratulate the chairman of the Education Subcommittee, Senator MORSE, for his capable stewardship of H.R. 7819, the Elementary and Secondary Education Amendments of 1967 through both the Education Subcommittee and the full committee. As usual, he was most considerate of all proposed amendments and all points of view. As usual, he did an outstanding job.

Coming from a State that takes great pride in its educational system which, in my judgment, is unparalleled in the Nation and having a great personal interest in education, I naturally welcomed my assignment this year to the education subcommittee. Service on the subcommittee has been very rewarding to me personally and I hope that my membership on the committee will prove to be beneficial both to my State and to the Nation.

The bill before the Senate today is a good bill. Of course, not all of the bill's provisions are precisely what I worked for and wanted. Nevertheless, the bill deserves the support of the Congress and the Nation.

THE NATION'S COMMITMENT TO EDUCATION

Thomas Jefferson once remarked:

If the condition of man is to be progressively ameliorated, as we fondly hope and believe, education is to be the chief instrument in effecting it.

This statement evidences not only the wisdom of our Founding Fathers, but also, the faith and commitment to education that has always characterized this country. This commitment continues today, as American citizens invest approximately 50 billion in our diverse educational system of more than 125,000 separate educational institutions serving more than 60 million students under the instruction of nearly 2 million teachers

This commitment to and investment in education will, as it has in the past, result in great dividends for the Nation. This investment will help to assure the Nation's world leadership and will help to further the Nation's continual climb toward equal and better opportunity for

all citizens here at home. The dream and desire of parents everywhere is that their youngsters will enjoy a better life than they themselves enjoyed. In fact this dream has generally been realized as each succeeding generation of Americans, through hard work and education, has been blessed with more abundance. There is little question, Mr. President, that the rising educational levels in this country have helped to open the door to the "good life" for more Americans. That the American people are aware of the importance of education and are cognizant of the role education has played in carrying the country to greatness is evident from a Gallup poll taken in 1966 which revealed an unbelievable 99 percent of American parents wanted their children to go to college. So the dream continues.

Mr. President, overall our educational system has served us well, but no one denies that problems remain, that we cannot be complacent. The challenge remains not only great, but seems to increase yearly. Throughout our history we have turned, what to other nations seemed as stumbling blocks, into building blocks.

The Elementary and Secondary Education Act is one such building block. It attempts through education to raise the education level of the Nation's disadvantaged youngster. It has helped to focus the attention of the country and of the educators in particular on the need to correct the educational deficiencies of poverty-area youngsters. In short, the Elementary and Secondary Education Act is the vehicle that is helping to carry educational opportunity to the disadvantaged. Federally funded but locally and State operated, this educational program has great longrun potential in helping to solve our poverty, and many other social problems.

The Elementary and Secondary Education Act has been well received in my State as it has in the Nation. And, the State of California has done a good job with the program. For example, Office of Education officials singled out California's title I evaluation as the best in the Nation.

THE DROPOUT PROBLEM—EDUCATION'S ACHILLES' HEEL

The Elementary and Secondary Education Act has helped to alert the Nation and bring to our attention the special problems of the disadvantaged. Yet, because of the urgency of the dropout problem, in our large metropolitan cities, and because of the realization that our society demands educated and trained citizens, there is a growing "impatience" both in the Congress and in the country over the failure to find programs that will actually reduce the dropout rate.

Mr. President, the dropout problem truly is one of the most serious domestic problems facing America. We are told that approximately 1 million students are dropping out of school each year. This is not only a personal tragedy preventing full development of an individual's potential, but it also is costly to society. For the dropout reappears in our spiraling crime statistics, in our juvenile delinquency rolls, in our penal and corrective institutions, and on our welfare rolls.

Dr. Conant in his 1961 book, "Slums and Suburbs," warned that social dynamite was accumulating in our large cities. Much of this "social dynamite" results from those who have dropped out of school and are out of work.

We are, of course, making some progress. For example, in 1900 it was estimated that 80 percent of youngsters aged 5 to 17 were in school. By January 1967, the estimate for the same group was 97 percent.

Also, of the 2.7 million ninth graders of 1956, 1.9 million or 69 percent ultimately graduated. Of the 3.8 million ninth grade youngsters today, it is projected that 2.9 million or 77 percent will successfully complete high school. While this 1967 projection represents a significant increase to the 1956 date, if it proves accurate, this Nation will still be faced with a dropout rate of 23 percent in 1970.

Think of it, Mr. President, a dropout rate of 23 percent in 1970. This at a time when technological change is occurring at an ever-increasing pace. This at a time, Mr. President, when even educated Americans realize the truth of the Chinese proverb that "learning is like rowing upstream; not to advance is to drop back." With the knowledge explosion, the educated citizens find it a struggle to keep from dropping back. The dropout, confronting both the education explosion and a shrinking unskilled job market, is likely to sink.

Today in the United States, there are not enough jobs for the unskilled. We are told that for every 10 unskilled workers there are only seven unskilled job vacancies. By 1970 it is estimated that only 5 percent of our jobs will be unskilled. Thus the problems already serious today will become more so tomorrow. For today there are 1 million dropouts under 21 who are out of work. And it has been estimated that the decade of the sixties, by its conclusion, will have produced some 7½ million school dropouts.

MURPHY DROPOUT AMENDMENT

Because of the urgency of the dropout problem and society's stake in finding a solution, I offered and the committee accepted an amendment aimed at the dropout problems. Mr. President, I want to thank Senator Morse and other committee members for their strong support and acceptance of my dropout prevention demonstration program.

My amendment added to title VII authorizes an additional $30 million for projects designed for dropout prevention. It is designed to give maximum flexibility and freedom at the local level for experimentation. It is based on the premise that answers have not as yet been found which will make dramatic changes in poverty area schools. Under the program, local and State educational agencies will submit innovative proposals which zero in on a particular school or a particular classroom in an effort to have a major impact on the dropout problem. The amendment requires that eligible schools be located in an urban area, have a high percentage of children from families of low income, and have a high percentage of children who drop out of school.

Before approving projects conceived at the local level, the local school district is required to identify the school, analyze the reasons for and tailor programs to meet the dropout problem, provide effective procedures, including objective measurements of educational achievement, for evaluating the program, and secure the approval of the State educational agency.

Two recent articles, one from the west coast and one from the east coast are most disturbing, and show the timeliness of my amendment. One report came from the November 2 New York Times article which reported that in New York City—

> Pupils in the city school system are continuing to lose ground in reading and arithmetic.

On the following day from the west coast the Los Angeles Times reported—

> Student in the Los Angeles City Schools, particularly those in the first three grades are among the worst readers in the nation.

These reports from the largest cities of the Nation's two largest States certainly have disturbing future implications and will have a bearing on our ability to deal with the dropout problem. Since reading is the basic skill, the key to successful school achievement, the need for remedial steps are apparent. For the correlation between poor reading, poor school performance, and the dropout are all too great. I ask consent that the New York Times and Los Angeles Times articles and an editorial from the Los Angeles Herald-Examiner be printed in full at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MURPHY. Mr. President, to rescue the dropout, our society spends dollar after dollar on program after program, but experience has demonstrated that educational repair jobs are extremely costly and equally difficult—witness the Job Corps.

My amendment seeks to find and to reach the root causes of the dropout problem. It provides additional resources and throws a challenge to the educational community. Prevent dropouts. If our educational system can reduce or prevent the dropout problem, it will not only be saving society the cost of the cure, but also it will be eliminating the Achilles' heel of our educational system.

Mr. President, I am convinced that this kind of approach will result in programs that will not only have an impact at the local level, but have nationwide significance. Zeroing resources on certain target schools or classrooms will accelerate the collection of objective data that will permit us to determine what programs work and what programs do not. My staff and I have talked to many people regarding this dropout proposal including Dr. James Conant, Dr. Max Rafferty, superintendent of schools of the State of California, Superintendent Jack Crowther, of the Los Angeles city school system, Dr. Ralph Dallard, of the San Diego school system and Dr. Wilson Riles, of California Compensatory Education. All seem to think this amendment would be

helpful and useful in meeting the crisis that exists in our slum schools.

THE BILINGUAL EDUCATION ACT

Mr. President, as coauthor of S. 428, the Bilingual Education Act of 1967, I am very pleased that the Senate Labor and Public Welfare Committee has approved the incorporation of the bilingual program as a new title VII to the Elementary and Secondary Education Act.

The bilingual program is a much needed one. As the hearing record reveals it had overwhelming support in the State of California and throughout the southwestern part of our great country. This program attempts to reach youngsters who face unique education problems because of their inability, and that of their parents, to speak English. I feel confident that the program will cause local educational agencies to devise programs to bridge the language gap, and thereby close the educational gap which obviously exists between English-speaking and non-English-speaking youngsters.

As I remarked when the Special Subcommittee on Bilingual Education was in California in June as part of its field hearings:

There can be no question that the language problem multiplies the difficulties of the young Mexican-American student as he enters the English-speaking schools of this country. We must not forget that for many of these youngsters, the only language they really know is Spanish. For many of these youngsters the only language they hear at home is Spanish. With a different language and a different cultural background, these students begin their school careers under severe handicaps. A sixth grade teacher in California school observed: "These children (Mexican-Americans) start school with a decided handicap, they fall behind their classmates in the first grade, and each passing year finds them farther behind. They are conditioned to failure in the early years of their schooling and each passing year only serves to reinforce their feeling of failure and frustration. Is it any wonder that as soon as they are sixteen, or can pass for sixteen, they begin dropping out of school."

This program should help to reduce the very high dropout rate of Mexican-American children.

This educational gap is further shown by the statistics taken from the Senate report and I quote:

These children, who number around three million of school age, are deprived of equal educational opportunities because of their limited communication skills. This is evidenced by the fact that in the five Southwestern states, which contain approximately one and one-half million Spanish-speaking children of school age, the average years of school completed is 7.14 Spanish surnames, 9 for non-white, and 12.1 for white. There is a similar correlation between low family incomes and their inability to speak English. For example, in the same five Southwestern states, 34.8 per cent of the Spanish surname populations are from families of incomes below $3,000 as compared to 21 per cent of the general population. The solution to this problem lies in the ability of our local educational agencies with high concentration of children of limited English-speaking abilities to develop and operate bilingual programs and instruction.

Mr. President, I am convinced that this bilingual program combined with legislation which has already been signed into law by Governor Reagan in California permitting instruction in Spanish in the State's public schools represents two major steps in extending education opportunities to those youngsters with special problems because of their inability to speak English. This bilingual program will, by raising the level of educational achievement, also increase the earning potential, for the relationship between levels of education and earnings is well known.

I will be following the developments of this program very carefully not only in the State of California, but throughout the country.

I appreciate the opportunity of serving on this Special Subcommittee on Bilingual Education and it is personally gratifying to see the Special Subcommittee's efforts culminate with today's Senate action. I am certain that in the years ahead all Members of the Senate will point with pride to our action in adding the Bilingual Education Act of 1967 to the Elementary and Secondary Education Act.

Mr. President, I would ask unanimous consent that the full text of my statement before the Special Subcommittee on Bilingual Education, when it was in Los Angeles in June of this year, be printed in full at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR GEORGE MURPHY BEFORE THE SPECIAL SUBCOMMITTEE ON BILINGUAL EDUCATION, LOS ANGELES, JUNE 23, 1967

First, Mr. Chairman, I want to welcome the Committee to California and to tell you how much the State appreciates your holding the field hearings and spotlighting a most important problem. This Special Committee is focusing on the special problems of certain citizens of California whom I regard as very special people. I, of course, refer to the Mexican-Americans.

All Californians are very proud of the contributions that Mexican-Americans have made to the State's history, its culture, its architecture, its art. In fact, Mexican-Americans have contributed to every facet of California's life from Father Serra to those of Mexican-American origin serving in Vietnam. Mexican-Americans are the recipients of 14 medals of honor for heroic acts in Vietnam, and I understand that this is the largest number won by any one group.

California is not only the largest state in the union, but we also are proud of the fact that we have more Mexican-American citizens than any other state. In California, there are over one and a half million persons with Spanish surnames of whom 80 per cent are native-born Americans.

During a recent field trip with the poverty subcommittee in California, I once again had the opportunity to visit with some of my good friends of the Mexican-American community. Their biggest concern was for their children. Their hopes and prayers are that their children will have a better way of life than they themselves enjoyed. They are aware of the need and importance of education. That is why I am so concerned that 50 per cent of the Spanish-speaking people in California drop out of school by the eighth grade. This is a shocking statistic and I have reason to believe that the language problem contributes to this unfortunate situation.

There can be no question that the language problem multiplies the difficulties of the young Mexican-American student as he enters the English-speaking schools in this country. We must not forget that for many of these youngsters, the only language that they really know is Spanish. For many of these youngsters, the only language that they hear at home is Spanish. With a different language and different cultural backgrounds, these students begin their school careers under severe handicaps. A sixth grade teacher in a California school observed: "These children (Mexican-Americans) start school with a decided handicap, they fall behind their classmates in the first grade, and each passing year finds them farther behind. They are conditioned to failure in the early years of their schooling and each passing year only serves to reinforce their feeling of failure and frustration. Is it any wonder that as soon as they are sixteen, or can pass for sixteen, they begin dropping out of school?"

In 1966, the National Education Association—Tucson Study—stated "during the two or three years of primary school while the pupil acquires a minimal knowledge of English, he falls seriously behind his English-speaking contemporaries in other sections of the community. This loss in subject-knowledge is seldom made up by the time he enters high school, where he finds himself unable to compete scholastically with his Anglo-American schoolmates."

These instances obviously underscore the necessity for great understanding and great patience on the part of the public schools and those who must mold and shape the minds of these children. Yet in the same NEA study, it is stated: "In some schools the speaking of Spanish is forbidden both in classrooms and on the playground, except, of course, in classes where Spanish is taught. Not infrequently students have been punished for lapsing into Spanish. This is even extended to corporal punishment. A member of our survey team tells of one school at which such punishment was dealt out to children who lapsed into Spanish despite the fact that 99 per cent of the school's enrollment was Mexican-American." This seemed rather ridiculous to me and certainly I thought it was somewhat atypical.

Recently when the poverty subcommittee was in California, I was shocked to hear from one witness that it was necessary to fight a school board rule against using the school after hours for meetings conducted in Spanish.

Mr. Chairman, I once again applaud the attention that this committee is giving to a most important problem. Feeling that education is the best key to the unlocking of these most difficult problems facing our society, as a co-author of S. 428, I pledge to this committee my full cooperation and efforts to secure expeditious action by the Congress on the Bilingual Education Act.

Governor Reagan is also very interested in this legislation and recently he signed into law legislation permitting the state's school districts to provide instruction in a language other than English. In signing the measure, the Governor said: "This measure will be of tremendous benefit to many Californians, particularly Spanish-speaking children who will be afforded more and better opportunities for quality education."

This measure, Mr. Chairman, will mark a significant step in reversing the alarming dropout rate among Mexican-American school children.

Of particular interest to me was testimony our poverty subcommittee heard from Mr. Bruce A. Gaarder, Chief, Modern Foreign Language Section, Office of Education, relaying an experience that occurred in Puerto Rico, and which was documented in a study by Columbia University.

"In Puerto Rico, in 1925, the International Institute of Teachers College, Columbia University, made a study of the educational system on that island where English was the major medium of instruction despite the fact that the children's mother tongue is Spanish. The Columbia University group undertook a testing program to measure pupil achievement in all grades and particu-

larly to explore the relative effectiveness of learning through each of the two language mediums. To test reading, arithmetic, information, language, and spelling they used the Stanford Achievement Test in its regular English version and in a Spanish version modified to fit Puerto Rican conditions. Over 69,000 tests were given.

"The results were displayed on charts so as to reveal graphically any significant difference between achievement through English and achievement through Spanish. Both of these could be compared on the same charts with the average achievement of children in schools in the continental United States. I will summarize the findings in two sentences:

"1. In comparison with children in the continental United States, the Puerto Ricans' achievement through English showed them to be markedly retarded.

"2. The Puerto Rican children's achievement through Spanish was, by and large, markedly superior to that of continental United States children, who were using their own mother tongue, English.

"The Columbia University researchers, explaining the astonishing fact that those elementary school children in Puerto Rico—poverty-stricken, backward, 'benighted,' beautiful Puerto Rico—achieved more through Spanish than continental United States children did through English, came to the following conclusion, one with extraordinary implications for us here:

"Spanish is much more easily learned as a native language than is English.

"The facility with which Spanish is learned makes possible the early introduction of content into the primary curriculum.

"Every effort should be made to maintain it and to take the fullest advantage of it as a medium of school instruction.

"What they were actually saying is that because Spanish has a much better writing system than English (i.e., the writing system matches the sound system) speakers of Spanish can master reading and writing very quickly and can begin to acquire information from the printed page more easily and at an earlier age.

"The conclusion is, in sum, that if the Spanish-speaking children of our Southwest were given all of their schooling through both Spanish and English, there is a strong likelihood that not only would their so-called handicap of bilingualism disappear, but they would have a decided advantage over their English-speaking schoolmates, at least in elementary school, because of the excellence of the Spanish writing system. There are no 'reading problems,' as we know them, among school children in Spanish-speaking countries."

I am certain that the recent action by the State Legislature in permitting instruction in Spanish and the enactment of the Bilingual Education Act, S. 428, will result in a duplication of the experience that occurred in Puerto Rico, and I feel confident, Mr. Chairman, that if this Education Committee comes to California some time in the future, we will be hearing testimony of the progress of the Mexican-American student here.

LATE FUNDING: THE PROBLEM

Mr. MURPHY. Mr. President, when I was appointed to the Senate Education Subcommittee this year, I immediately wrote many of the educational leaders in the State of California asking them to share their expertise and experience with me in order that I would be better prepared to serve on the important subcommittee assignment.

The response that I received from the presidents and chancellors of the universities, State colleges, junior colleges, and the superintendents of schools were most gratifying and helpful.

Inevitably, the recurrent complaint in the letters from the superintendents of the various school districts was the problem created by the late funding by the Congress of the Elementary and Secondary Education Act.

While I feel certain this is a serious problem throughout the country, in California, according to the superintendents, it was critical. For example, California law requires that a written notice be given teachers by May 15 if they are not going to be hired the next year and that the district budget be enacted not later than early August. One can see how the uncertainty over the level of Federal funding with those two laws alone would create an administration nightmare.

Since the Elementary and Secondary Education Act was enacted in 1965, the record shows that the school districts failed to receive the funds until the school year had progressed many months. This creates an obviously impossible situation. I have selected some typical reactions of California school superintendents on this problem of funding. From Superintendent Ralph Dailard of the San Diego school system:

Delays in appropriations have had a crippling effect on the operation of the authorized programs. I am aware that the President has called this to your attention in his recent message and urged "that Congress enact educational appropriations early enough to allow the nation's schools and colleges to plan effectively." I would add emphasis to this by telling you that as of this moment I do not know the amount of money the San Diego City Schools will receive for this year for the program for deprived children being operated under Title I of the Elementary and Secondary Education Act. Under California law, the district budget had to be enacted not later than the first week in August. No appropriation had been made at that time for the Elementary and Secondary Education Act. On advice of the State Department of Education, we included a budget estimate for the purpose equal to 85% of the amount we had received for the seven months of operation during fiscal '66. I do not yet have firm information of the amount we will receive. Information I did receive last week led me to believe that the 85% estimate was optimistic and that our actual grant would be below that level. I am distressed to tell you that I issued instructions last week to cut back the project, freeze all vacancies, and cancel all unspent appropriations for materials. This will be destructive to the morale of the staff and parents in the neighborhoods being served. The quality of the program will suffer. However, I had no alternative. The district does not have funds to replace the deficit that has apparently occurred in Federal funding. To plan and operate the authorized programs adequately and efficiently, the local school districts need firm information on financing prior to final budget enactment which, in general, occurs in June or July. Funds must be disbursed early to permit districts to maintain a cash operation. The district I represent had to borrow $8 million—10% of its anticipated revenue, early in the fiscal year to meet current operations. The normal district does not have adequate cash reserves to maintain these massive new programs when payments are delayed.

Also, from Superintendent Coffin, of the Monterey County schools, came this special plea:

On behalf of all of us in education, particularly in California, I would like to enter a special plea for a revision of appropriation procedures and greater coordination of application deadlines among the various federal acts.

First, our school districts must prepare budgets in the spring. In order to get qualified personnel, we must complete our recruiting by March of each year. (Later than that, the good people who are not already signed are very few and far between.) These two problems, coupled with the present timing of appropriations, lead to waste and to a lessening of program quality, for, unfortunately, districts are too prone to merely grab at money, whether or not they have proper personnel and programs, just so it won't escape. This practice is, I'm afraid, aided and abetted by the habits of Congress.

From the governing board of the Fremont Union High School District the need for early funding was stated as follows:

What we need most in federal aid is earlier approval of federal grants so we can plan more effectively for their use. Since we must prepare our budget in April for use in the following fiscal year (July 1–June 30), it would be helpful to know how much in matching funds we will need and the amount of outright grants. At the present we must budget for all categorical items even though many of them may not be approved.

Superintendent LaFleur, of the Oceanside-Carlsbad Union High School District, deplored late funding in the following manner:

Two aspects of the federal assistance program that concern us the most are those which have to do with securing approvals on project applications in time to put the project into effect at the beginning of the school year and the practice of having to wait for annual fundings for federal programs. We have incurred particular difficulty in getting approval on our Elementary & Secondary Act projects before the school year begins. When the approval comes after the start of the year classes are interrupted, students and staff are confused and frustrated and, as a consequence, the program is not nearly as effective as it would be if instruction could proceed in an orderly manner.

With respect to annual funding, here again the problem is very real. The programs could be set up for a 2, 3 or 4 year period with full funding assured and the district could make long range plans for their participation.

Again, let me thank you for asking for an opinion. It is most encouraging to know that our senatorial representatives are interested in seeking counsel and advice.

Superintendent Moore, of the Ravenswood City School District, outlined the problems caused by late funding in his district and urged correction of this program, saying:

Relative to federal assistance to districts such as ours under Title I, Public Law 89–10, enacted in 1965, I believe that the most important thing that needs to be done now is to insure the allocation of money to the states not later than May 15 of a given year in order that school districts might properly plan the programs that will be in effect during the next school year. In California our school budgets must be adopted prior to the tenth of August. During this past year we were notified of our actual federal allotment only in March. Even though we went ahead and hired people, we were taking an extreme gamble on the allocation of federal funds. Anything that you could do to insure that these funds will be available at the earliest date possible would be far more important at this time than extending the program or adding new provisions.

You may not know that our allotment

this year, despite the fact that we have more eligible children, was only 85% of what it was for the 1965–66 school year. We are now being told that we will probably receive even less next year. Under such conditions it is impossible to develop and to carry on programs that will have a lasting effect on children.

Your interest in our school district and your interest in serving on the Subcommittee on Education of the Senate Committee on Labor and Public Welfare will, I am sure, prove to be a worthwhile experience to you and will give us in California someone with whom we may correspond.

These observations of California educators in deploring the late funding of the Elementary and Secondary Education Act were echoed by the 1966 report of the National Council on the Education of Disadvantaged Children when it observed:

There is no doubt that implementation of Title I (programs for disadvantaged children and the major share of the Act's funds) was greatly hampered . . . by the non-availability of funds until after the school year began. Most personnel in needed specialities were already under contract, and school administrators were forced to plan projects almost overnight . . . We strongly urge the Congress to enact the next Title I appropriations bill . . . not later than early summer 1966 to permit more careful program development and thus assure more effective use of the funds.

ADVANCE FUNDING: A SOLUTION

Last year, under the leadership of Senator PROUTY, the ranking Republican on the Education Subcommittee, the Senate added a provision to the Elementary and Secondary Education Act Amendments of 1966 which employed the continuing resolution device to take care of this late funding problem. Although the Prouty amendment, which I supported, passed the Senate, it was unfortunately deleted in conference.

This year, the committee has added an amendment to title IV designed to face up to this late funding problem. Basically, the amendment would place the Elementary and Secondary Education Act on an advanced funding basis. This will permit educators to better utilize Federal funds, and even more importantly, result in better programs for the disadvantaged.

This section is discussed on page 6 of the committee report from which I read:

Under title IV of H.R. 7819 may be found committee recommendations (1) to provide specially for funding advance planning of programs, and evaluation of programs, so as to promote effective use of program funds, and (2) to meet the problem of reconciling school budget and congressional appropriation cycles to provide a sound basis for planning and operation of educational programs, at the elementary and secondary levels. The first proposal would authorize, for each fiscal year for which program appropriations are authorized, appropriations for expenses (including grants, contracts, or other payments) for (1) planning for the succeeding year and (2) evaluation of programs. The second proposal, essentially, would permit the President to submit to the Congress, and the Congress to enact, in one fiscal year his funding recommendations for education legislation for the next fiscal year; in the initial year of this system, appropriations for the succeeding year would be included in the appropriation Act for the current year. If these budget estimates were approved by the Congress, expenditures would not take place until the fiscal year designated. The action of the Congress and the President in approving advanced funding, it is the committee's hope, would stabilize a difficult situation which has caused much concern to State and local educational agencies, institutions of higher education, and others who must plan and make commitments in one fiscal year for expenditures in the next fiscal year.

Title IV would also require, not later than March 31 of each year, evaluation reports from the Secretary of Health, Education, and Welfare upon the effectiveness of programs under provisions which have been authorized and funded. The evaluation report filed in the penultimate fiscal year for which appropriations are authorized under a program would have to cover comprehensively the entire life of the program; the authorization of the program would be automatically extended for 1 year at the previous year's level if the legislative process authorizing or declining to authorize an extension of the program had not been completed by the end of the session in which the comprehensive evaluation report is filed.

Title IV of the bill also provides that if, by May 15 of any year, the appropriation for carrying out title 1 of the Elementary and Secondary Education Act of 1965 during the succeeding fiscal year has not yet been enacted, the Commissioner may execute grant agreements for such succeeding fiscal year but only at the current appropriation level.

Appropriations for any fiscal year for payments to educational agencies or institutions under any of the acts specified in title IV of the bill could be made available for expenditure by the agency or institution on the basis of an academic or a school year if this differs from the fiscal year.

OTHER IMPORTANT PROVISIONS

Mr. President, there are many other aspects of the bill before us today, including programs in which I am vitally interested and strongly supported. They include the adult education programs, the needed improvements in the migrant children educational programs, the handicapped children provisions, amendments improving education programs for Indian children, extension of the school library resources and instructional material section of the act, greater authority for the States under title III, supplemental educational centers, and the impacted aid programs.

IMPACTED AID: CALIFORNIA'S ELIGIBILITY ASSURED

I heard the disturbing reports again this year regarding the latter program. Specifically, rumors reached me that the Office of Education was going to rule that junior colleges in California, because of the restructuring in the junior college system would become ineligible for impacted aid assistance. To prevent this, I was prepared to offer an amendment which I feel confident would have been accepted by the committee. However, I received a letter from the Office of Education advising me that the California junior colleges would remain eligible thus eliminating this necessity for a corrective amendment. So that the record will remain clear, I ask unanimous consent that my earlier floor statement on this subject be printed in full at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

[From the CONGRESSIONAL RECORD, Oct. 19, 1967]

JUNIOR COLLEGE ELIGIBILITY UNDER THE IMPACTED-AID PROGRAM

Mr. MURPHY. Mr. President, last year, as my colleagues may recall, I opposed the administration's efforts to eliminate the so-called impacted-aid program, Public Law 81–815 and title I, Public Law 81–874.

Because of the importance of this issue, I appeared on April 5, 1966, before the Education Subcommittee and strongly urged the subcommittee to reject the administration's recommendation and accept my amendment, which continued junior college eligibility. The subcommittee, and later the full Labor and Public Welfare Committee, agreed with me, and as a result, the Senate adopted the Murphy amendment continuing junior college eligibility. Congressman BELL of California led this fight on the House side.

Again this year it appeared that the loss of funds was threatened. Recently, the California State Legislature passed, and the Governor signed into law, legislation establishing a new 15-member Board of Governors of California Community Colleges, which will be the new governing body for the State's junior colleges. The new board will succeed to the responsibilities previously exercised by the State board of education, the director of education, and the department of education.

As a result of this administrative change, I heard disturbing reports that the Department of Health, Education, and Welfare was about to render a ruling making California junior colleges no longer eligible for the impacted-aid assistance.

With the Elementary and Secondary Education Act presently being considered in executive session by the Subcommittee on Education, I was determined not to allow this "vehicle" to clear the Congress and then to hear the Department had ruled California junior colleges ineligible.

To prevent the loss of funds, I prepared an amendment which I planned to offer, if necessary, to the Elementary and Secondary Education Act, and which, incidentally, I am confident would have been accepted by the subcommittee. I also pressed the Department to render an immediate decision on this matter and provided them with a copy of the California State law.

I was pleased, Mr. President, to have received late yesterday a letter from Mr. James F. Hortin, Acting Director, Office of School Assistance in Federally Affected Areas, ruling that California would remain eligible. I ask unanimous consent that his letter be printed in full at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, OFFICE OF EDUCATION,
Washington, D.C., October 18, 1967.

Hon. GEORGE MURPHY,
U.S. Senate, Washington, D.C.

DEAR SENATOR MURPHY: Thank you for the copy of the California State Law, Chapter 1549, approved by the Governor on August 20, 1967, relative to junior colleges (grades 13 and 14) which you sent to our office yesterday.

The provisions of the new Act have been reviewed by our Counsel and the Commissioner has determined that those junior colleges in California which were considered to be legal "local educational agencies" for purposes of Public Law 81–815 and Title I, Public Law 81–874, under the terms of the previous California law are not precluded from the same classification under the new Act.

Should you have need for further infor-

mation relative to this matter we will be glad to oblige.

Sincerely yours,

JAMES F. HORTIN,
Acting Director, School Assistance in Federally Affected Areas.

Mr. MURPHY. Mr. President, I am extremely proud of the educational system in the State of California. In my judgment, it is unparalled in the Nation. The junior colleges are an important part of this great educational system. At this very moment in California 84 out of every 100 college freshmen and sophomores are in our junior college system. This statistic in itself underscores their importance.

California has been the pioneer in the junior college movement which has spread throughout the Nation. As of October of last year, there were 78 junior colleges in the State, and there may be more now for they are growing so fast that I have trouble keeping track of them. By early 1970, it is expected there will be 100. Had a ruling been made that the California junior colleges were ineligible, a heavy blow would have been inflicted upon some of these colleges.

Since California has been the leader in the junior college movement, I believe that any decision harmful to the California system might have national repercussions. And, Mr. President, the junior colleges continue to grow nationally. I am advised that there were approximately 850 junior colleges in the country last year, and 67 new ones will open this year. These junior colleges were attended by 1.5 million last year and an additional 250,000 students will be enrolled this school year.

I, of course, am delighted over the ruling of the Department. I am pleased no amendment will be necessary. This ruling of the Department will be applauded by educators, citizens, and particularly the junior college students.

EXHIBIT 1

[From the Los Angeles Herald Examiner, Nov. 12, 1967]

READING AND RANKING

The poor showing on reading tests made by pupils of the Los Angeles city school system is cause for concern but not panic.

Even before the results of the tests were revealed, school officials had initiated many moves to improve reading skills. This effort undoubtedly will be reflected in the next testing. If it isn't, then a general alarm should be sounded—for reading is the key that unlocks all doors to knowledge.

The quality of education in the Los Angeles public schools is not uniform. It will vary from school to school, depending on social and economic factors, parental interest and the competence of teachers.

Education also must cope with budgetary problems resulting from voter rejection of school bond issues. And the Los Angeles schools must contend with having 30,000 children on double sessions.

The state's 175-day school year, five days less than the minimum of most other states is another handicap. And the loss of 10 to 15 days in the mid-year change of semester takes its toll.

But Supt. Jack Crowther has zeroed in on these problems and recommended that the school day be lengthened a half hour for first and second-grade pupils, and the mid-term promotion system be eliminated.

The allocation of additional time for reading instruction is a definite plus factor already at work in the schools. Supplementing this effort is the decision to hire 24 reading specialists to work with new teachers.

The Los Angeles schools have their problems, true, but strong, imaginative leadership is acting to solve them. We think that leadership merits all the help the people of Los Angeles can give.

And, by the way, a school system that feeds an ever greater percentage of its students into the best-in-the-nation university and college system in California must be doing something right.

[From the Los Angeles Times, Nov. 3, 1967]

LOS ANGELES STUDENTS AMONG POOREST READERS IN UNITED STATES, TESTS SHOW

(By Jack McCurdy)

Students in the Los Angeles city schools, particularly those in the first three grades, are among the worst readers in the nation, test results showed Thursday.

Major findings indicated:

1—Los Angeles first graders are in the bottom 7% of the national norm in reading.

2—Pupils are one year behind the norm for reading ability by the time they reach the third grade.

3—Los Angeles ranks 10th among California's 10 largest school districts in reading achievement in the first, second and third grades.

4—Sixth graders are in the lower 20% nationally.

5—Tenth graders scored in the lower 35%.

"California's statewide attainment (in reading) is substantially below that of the national sample . . . and Los Angeles' attainment is substantially below that of California as a whole," the report concluded.

The Board of Education appeared stunned by test results submitted by Supt. Jack P. Crowther.

"This is a crisis," said Dr. Ralph Richardson, a board member. "Districts as large as this usually move with caution, but this calls for a renewed, redoubled, dramatic effort."

Crowther called for a series of actions including:

1—Eliminating the mid-year promotion system throughout the city schools to save time for classroom instruction.

(This would virtually do away with semesters and make the September-June school year a continuous period of classes without promotion from lower to upper grades in January.)

2—Extending the school day by 30 minutes for first and second graders.

3—Hiring of 24 specialists for the elementary schools to help new teachers improve their performances.

While accepting his proposals, the board voted to authorize Crowther to seek "an emergency measure in the Legislature to lift reading to a priority level."

TEMPORARY RELIEF

The board asked for "temporary relief from selected (state) mandated programs having less urgency then reading," referring to certain subjects other than reading which the State Education Code says must be taught.

Richardson and Mrs. Georgiana Hardy, board president, suggested that the district go ahead "and break the law for a while" to emphasize reading at the expense of the state-mandated subjects.

"I am quite serious," Mrs. Hardy said and Richardson agreed.

The Stanford Reading Test was administered to all first, second, third, sixth and 10th graders late in 1966, and early this year.

SCORES DETERIORATE

Results showed the scores for the sixth and 10th graders had deteriorated when compared to tests in 1965 and 1964, respectively. Results were virtually unchanged for first and second graders.

This showed that first graders were about 3 months behind the national norm and second graders eight months, trailing by one year in the third grade.

In raw test scores, the first graders scored a median of 23 compared to a national average of 47. Second graders were 28 compared to 50 nationally. There was no comparison for third graders.

While first graders scored in the lower 7% of the national norm, second graders were in the bottom 11% and third graders in the lowest 21%.

Dr. Howard Bowman, director of the city schools' testing section, said questions had been raised about the validity of the tests.

They were used here for the first time in 1966 after four years of using other tests.

However, Bowman said, students did not improve their scores this year although they were more familiar with the tests.

In addition, the Stanford testers found that examinations for other parts of the nation have had to be made harder because student performance is rising, while Los Angeles students have not shown similar improvement.

On the sixth and 10th grade tests, percentile scores were down from 20 to 18 for the younger group over last year and were unchanged for the high school students.

The test analysis indicated scores for Los Angeles students were virtually unchanged between 1962 and 1965, but the latest results are "appreciably below" preceding years.

In general, Bowman said, the scores "are down by a considerable amount—much larger than we are accustomed to receiving."

Some board members said the test scores might have been pulled down by low performances in Negro and Mexican-American areas.

SCORES GENERALLY LOW

Although the district refused to release results of individual schools, it was understood that the results were generally low throughout the school system.

Crowther said he is appointing a task force to work out details of his proposals which will be submitted to the board.

This will determine when to begin eliminating the mid-year promotion system. The extension of the school day for first and second grades will be effective Jan. 29.

Crowther said five years ago the district had one specialist for every 17 new teachers but that this ratio has been steadily reduced to meet budget cutbacks. The last 24 were eliminated from the budget this year.

The superintendent told the board that growing enrollments and lack of tax revenue have decisively damaged the educational program.

"We have tightened our belts, we have lopped here and cut there. And, frankly, I think we must tell people that our educational program has been harmed," he said.

[From the New York Times, Nov. 2, 1967]

CITY PUPILS LOSING GROUND IN READING AND ARITHMETIC

(By Leonard Buder)

Pupils in the city school system are continuing to lose ground in reading and arithmetic, a Board of Education report disclosed yesterday. The report, giving the results of standardized achievement tests conducted during the 1966–67 school year, showed that pupils in the public schools lagged behind national norms or standards in virtually every grade.

Despite a systemwide effort on intensifying and improving education in the basic subjects, the achievement gap between youngsters here and those of the nation as a whole, as represented by the national test sampling, was wider last spring than ever before.

One of every three pupils in the city schools was a year or more behind in reading last spring, the report showed.

The gap between the achievement of city pupils and the national standards showed up in the second grade, the first tested, and became more pronounced in the upper grades.

In the fourth through sixth grades, one of every five pupils was two years or more behind in reading.

In the seventh through ninth grades, one of every three youngsters was two years or

more behind. One of every nine pupils was four years behind.

In a test of arithmetic skills—given to fourth and sixth grades—two of every three children had an achievement rate below the national standard.

The board also made available the reading test results for each elementary, intermediate and junior high school in the city.

This was in line with a board policy adopted last year to give the public more information about school matters. Some persons in the school system have asserted in the past that the release of individual school results could lead to unfair comparisons by parents and others.

The data showed the wide range in achievement between pupils in schools in different sections of the city—a matter that has been increasingly pointed up by critical slum residents.

Pupils in middle-income communities were frequently two or more years above the national standards. Those in predominantly Negro and Puerto Rican neighborhoods were generally one to two years behind the national standard, and brought down the city-wide scores.

SOME PROGRESS NOTED

Despite the seemingly bleak test results for the system, Superintendent of Schools Bernard E. Donovan said at a news conference at board headquarters in Brooklyn that he was "encouraged by what looks like some progress towards better reading," particularly in the early grades.

He noted that when the first reading test of the school year was given in September, 1966, only 28.9 per cent of the second-graders were reading at or above the norm for that point. When the second test was given last April 45.1 per cent were at or above the appropriate norm.

Dr. Donovan said that it appeared that the system's efforts to improve reading were "beginning to pay off."

To a reporter's question of whether last year's scores were the "worst ever," the Superintendent conceded that they were.

"But a headline of that nature would set back our efforts and undermine what we are trying to accomplish," the Superintendent said.

Mr. MORSE. Mr. President, I wish to assure the Senator from California that I am deeply appreciative of the comments he has made about the chairman of the subcommittee. His comments should be applied, as he knows, to the full subcommittee, and to the full Committee on Labor and Public Welfare.

As an indication of how appreciative I am of his remarks, I wish to announce to him that he owes me a cup of coffee. He may not know it, but not so many days ago I was in California. In the course of an open forum discussion which followed a speech I delivered on a subject matter with which the Senator from California does not agree with me, I was asked to comment on the Senator from California. I want him to know that, in the presence of his constituents, I said he was one of the most valuable members of the Subcommittee on Education.

I pointed out in that discussion that the bill that I was about to manage on the floor of the Senate contained a series of contributions of the Senator from California, including amendments that he either authored or cosponsored.

I was pleased to say that in California, as I am pleased to say it on the floor of the Senate today, for he has extended to this chairman more than the cooperation to which a chairman is entitled. I thank him very much for that cooperation.

Mr. MURPHY. I thank the chairman most sincerely. I shall be more than pleased to provide the cup of coffee.

I should also like to point out that flattery of this nature is still very acceptable. I am still young and impressionable. But I hope that his words will not turn my head for activities in the future, because I look forward to the privilege of serving many more years with the distinguished Senator from Oregon on this most important committee.

It is even fun sometimes to disagree with the Senator from Oregon, because he is so gracious in disagreement and so capable in argument.

Mr. MORSE. Flattery is not intended by my comments; but I know how the Senator feels, because I feel that way sometimes in some of the things I have said. But I am sincere in paying this compliment to the Senator from California.

ECONOMIC SLOWDOWN SHOWS WHY TAX INCREASE EXACTLY THE WRONG MEDICINE

Mr. PROXMIRE. Mr. President, Arthur Ross, the able Commissioner of Labor Statistics, has just sent me, as chairman of the Joint Economic Committee, his analysis of wages, prices, and productivity for the third quarter of 1967.

This analysis, from the man chiefly responsible for our economic statistics, should be "must" reading for any Senator who supports a tax increase.

The report does show that output increased in the third quarter of the year. But, as the report argues, output fluctuations have moved erratically in the past and are far more meaningful if put together on the basis of moving averages covering four consecutive quarters or the full year ending with the third quarter of 1967.

On this basis, real output of all this Nation's goods and services—not just industrial output, which is down, but all of it—increased only 2 percent and, as the Bureau of Labor Statistics points out, this is only "half the rate necessary to keep pace with labor force growth and long-term productivity gains."

Mr. President, this means that unless the economy speeds up, unless we get more demand and production, unemployment is going to increase.

So I would ask the advocates of the administration's tax increase, which would take $10 billion at an annual rate out of the economy and eliminate a million jobs: "How in the world do you reconcile such an economic slowdown policy with an economy that is growing so slowly that, even without a tax increase, demand is so anemic, so limping that we can only absorb about half our increase in the labor force?"

How much do we have to increase unemployment to meet the administration's objective?

The second fascinating revelation of the Bureau of Labor Statistics' most recent report is that prices are rising because costs are rising, and labor costs especially are rising more rapidly than productivity. As any cost accountant in any firm in America can tell you, this means that those wage-price increases are being translated into higher prices. American business cost accounts what it produces. A major reason why it carefully accounts for its costs is so that it can price what it produces. If a business sell below its cost, it does not stay in business.

To this cost-push inflation the tax increase contributes adversely in two ways. First, taxes are a cost. The corporation income tax increase proposed by the administration will be translated into higher prices. And the tax on the labor union member's personal income will also tend to find its way into higher wages and higher prices.

So the tax increase will contribute nothing to the present anti-inflation fight by taking income and effective demand out of the economy. We have too little of it now. The diminution of that demand by a tax increase will contribute in still another way to higher prices.

As production is reduced by the fall in demand, the lesser production must cover the same overhead. This means unit costs go up.

Mr. President, this is not a far out theory. This was the brilliant analysis of Charles Schultze when he was freer to speak his mind. He is a distinguished professor, and he appeared before the Joint Economic Committee in 1959 and pointed out that under these conditions a tax increase can increase prices and not decrease prices.

Mr. President, I wish to repeat the statement that I made more slowly. Lower production, because the tax increase reduces demand, means higher costs for each unit produced because overhead must be covered.

Reducing income by increasing taxes does indeed stem inflation when demand is excessive and production soaring. Then it does keep too much money from chasing too few goods up to higher prices. But the Bureau of Labor Statistics report shows once again that this is emphatically not the present situation.

If there are any better statistics than we can get from Government I would like to know what they are. When prices are going up because costs are pushing them up, then higher taxes that reduces demand and therefore production does increase unit cost and, therefore, prices.

Finally, Mr. President, this interesting report of the Bureau of Labor Statistics emphasizes still another reason why this economy does not need a further tax increase. In the third quarter of this year three elements that contributed most to the rise in prices were: The price of cigarettes, of electricity, and rent. And why? Because in each case taxes forced their prices up. Cigarette tax increases pushed the price of cigarettes up. New sales taxes on utilities in a number of large cities shoved up the price of electricity. Rent rose because of higher property taxes.

For the Federal Government to solve the taxpayer's problems further by another tax—this a whopping ten billion increase in Federal income taxes—can hardly be classified as kindness to the

American citizen whether he is viewed as a taxpayer or as a consumer.

Mr. President, I ask unanimous consent that the report of the Bureau of Labor Statistics to which I have alluded be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REVIEW OF WAGES, PRICES, AND PRODUCTIVITY, THIRD QUARTER 1967

U.S. DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS,
Washington, D.C., November 29, 1967.

SUMMARY

Output grew at an increasing rate during the third quarter, but, as frequently occurs during a protracted period of slow growth, productivity increases continued substantially below trend. At the same time, average hourly compensation was rising strongly. As a result, cost per unit of output again rose at about double the post World War II pace.

As demand gained strength and costs continued to rise, industrial prices resumed their upward trend after five months without a change, and the rise in the Consumer Price Index continued unabated. A sizeable decline in prices of farm products due to expanded supplies helped to offset a portion of these rises.

I. PRODUCTIVITY AND UNIT LABOR COSTS

In the third quarter of 1967, real output of the private economy rose at the highest rate since early 1966, and man-hours rebounded partially from the sharp drop in the previous quarter. (Table 1a) Since both factors rose, output per man-hour increased only slowly. Hourly compensation continued to rise, although at a slower pace than in most recent quarters, so that the rise in labor cost per unit of output continued to be nearly double the long-range average.

Because changes in output frequently do not appear simultaneously with man-hour changes, quarterly changes in output per man-hour data tend to fluctuate, especially when output gains move as erratically as they have in the past two years. Moving averages which take into account a longer span of time present more meaningful results.

In the most recent four quarters, ending September 1967, growth in real output of the private economy increased somewhat as compared with earlier periods, but it was only 2 percent. This is hardly half the rate necessary to keep pace with labor force growth and long-term productivity gains. The slow rate of output growth, which, in the short run, is frequently associated with low productivity gains, was reflected in an increase in output per man-hour at an annual rate of only about 2 percent. Basically, this was the same rate as in most quarters since the economic slowdown in the second quarter of 1966 and was well under the postwar average of 3.2 percent or the 1961–66 average of 3.6 percent. The total number of man-hours made no gain over these quarters; the service sector showed some gains and the goods areas some declines.

Hourly labor costs advanced more than 5½ percent in the most recent four quarters as compared with the postwar average of nearly 5 percent. The increase was somewhat smaller than in 1966 and earlier in 1967, largely because of the smaller social security increase this past year, greater employment in the low-wage industries, and delay in several important wage negotiations. With hourly compensation continuing to rise at a faster pace than the long-term average and productivity sagging below trend, labor costs per unit of output rose at double the postwar average.

II. WAGES, SALARIES, AND BENEFITS

Hourly expenditures on wages and benefits (excepting social security taxes) for employees[1] in the private nonfarm economy rose at about the same rate in the first three quarters of 1967 as in the corresponding period last year. However, because social security taxes rose more in 1966 than in 1967, *hourly labor costs* as a whole advanced 5.0 percent in the first three quarters of last year as against 4.4 percent this year. (Table 2)

Average *hourly earnings* in the total private economy rose at about the same pace in the two periods. In finance, insurance and real estate, trucking, and laundries, hourly earnings advanced more in 1967 than in 1966. Real estate (which includes some building services) and laundries were affected by the changes in the FLSA minimum in February 1967. FLSA increases—the 1967 change or the anticipated 1968 change—presumably were factors in some manufacturing industries as well, but the overall rise in manufacturing was somewhat slower than a year earlier, mostly because of reduced overtime. Construction union wage scales going into effect during the first three quarters of the year increased more rapidly than during any period since 1952.

Real weekly earnings rose 1.7 percent in the first three quarters of 1967, compared with 1.5 percent a year earlier, mostly because consumer prices rose more slowly. After deduction of Federal income and social security taxes real earnings rose 1.0 percent in the past year, compared with virtually no change a year earlier. Purchasing power of the average worker for the past two years has held within a very narrow range. The September 1967 figure was actually slightly lower than in September 1965.

Changes in compensation and earnings result, in part, from provisions made in earlier years under long-term contracts for *deferred wage increases* to go into effect during the current year. Decisions actually reached in the first three quarters of 1967, considered apart from deferred changes, showed a marked acceleration from the first three quarters of 1966. Key collective bargaining settlements provided average increases in wages and benefits of 4.8 to 4.9 percent a year, compared with 3.9 to 4.4 percent in the corresponding months of 1966. Cash wage changes in union contract settlements and wage increases in nonunion establishments in manufacturing showed a similar acceleration. (Table 3)

Larger increases resulted from wage decisions in 1967 than in 1966, but changes accruing to all workers during the past year did not advance at a faster pace, partly because the deferred wage and benefit increases which went into effect in 1967 were smaller than those in the newly negotiated agreements. Other factors restraining the actual rise in earnings and compensation in the first three quarters of 1967 were smaller cost-of-living escalator adjustments and the delay in negotiating new automobile contracts. Automobile workers got a total increase of about 19 cents in the first nine months of 1966 and only 2 cents in the first nine months of 1967. The relative increase of employment in lower-wage industries such as trade, finance, insurance and real estate, and services also held down the overall average in 1967.

Wage developments during the third quarter made little change in the picture presented by the first two quarters of 1967. With settlements in the auto and nonferrous mining industries deferred by prolonged disputes, the number of workers covered by major settlements was only about a third of the number covered by settlements in the previous six months.

The settlement reached early in the fourth quarter of the year between Ford and the United Automobile Workers, though about the same in cost as the 1964 settlement, was notable for the emphasis it placed on wage increases, including substantial extra increases for skilled workers. For the first time since the establishment of cost-of-living escalation in the industry about 20 years ago, the contract established a minimum and maximum limit on the size of cost-of-living escalator increases and provided for annual rather than quarterly adjustments in the cost-of-living allowance. It also increased supplemental unemployment benefits and provided for higher employer contributions in the event of substantial drains on the fund. On the other hand, it abolished provisions for annual Christmas bonuses payable from these funds.

III. PRICE DEVELOPMENTS

The wholesale industrial price index resumed its upward trend with a rise of 0.5 percent in August and September, after five months without change, largely because of a renewed advance in intermediate materials. Crude materials increased slightly, after more than a year's decline, and finished goods resumed the rather sharp rate of rise of the first quarter, after some slowing in the second. (Table 4) Despite the advance in industrial prices, however, the overall wholesale price index edged lower in the third quarter because of a sharp decline in farm prices.

The consumer price index rose 0.9 percent in the third quarter, the same as in the second, with consumer services rising a little more sharply, foods a little less, and other commodities about the same. Prices of commodities other than food increased the same 1 percent as in the previous quarter. (Table 6) Nondurables, other than food, continued to advance, attaining their largest quarterly increase since the current sharper uptrend began in early 1965, but durable commodities rose a little less than in the second quarter, mainly because of seasonal slack in automobile prices at the end of the model year, which outweighed sharper increases in household durables and automobile tires. The nondurable groups showing both the largest rises in the third quarter and the greatest acceleration from the second quarter were fuel oil, cigarettes, and alcoholic beverages. The rise for cigarettes resulted from both wholesale price increases and higher taxes.

Industrial materials and products. The increase in prices of crude industrial materials followed a 16-month downtrend, but it was due in large part to special factors. Crude petroleum, unchanged in the second quarter, recorded its sharpest rise in ten years, largely because of the Mideast situation, and both ferrous and nonferrous scrap increased in price; prices of copper scrap rose because of the domestic copper strike. A jump in silver prices followed the cessation of silver sales by the Treasury at a fixed price. The drop in hides and skins slowed sharply. These changes slightly outweighed the declines in some agriculture-related and world-traded commodities. (Table 7)

Of greatest importance in the renewed industrial price advance was the rise of 0.4 percent in intermediate industrial materials, which had remained relatively stable during the second quarter. Increases occurred over a wide range, with an 0.5 percent advance in steel mill products probably most significant; over the past year, this group has risen 1.1 percent. Some of the other major increases partly reflected temporary developments, but basic demand and cost factors seemed to be of considerably greater importance in these rises.

Almost all major construction material prices moved up with the recovery of construction activity from the depressed levels of last winter. The sharpest increase came in lumber and plywood; rising demands—because of the housing resurgence and the threat of a Canadian lumber strike—con-

[1] This section refers to nonfarm employees only, whereas the summary, the discussion of unit labor costs, and Table 1a include both the self-employed and all farm workers.

verged on reduced supplies as Pacific Northwest forests were closed to loggers because of severe and prolonged fire danger. Some decline in lumber and plywood prices came in October, after forests had been reopened and demand slackened seasonally. Prices of copper mill products rose sharply as the domestic copper strike forced manufacturers to higher-priced sources of the metal.

Among finished industrial goods, increases continued widespread, although the rise in producers' durable goods prices, which had been slowing since last year, slackened slightly further in the third quarter. (Table 6)

Consumer durables rose moderately at wholesale in the third quarter after a small decline in the first half, largely reflecting a withdrawal of automoble manufacturers' special concessions to dealers, since dealer inventories were low. Floor coverings increased moderately after five quarters of declines.

Among the nondurables, the new fall and winter lines of apparel carried higher price tags as sales ran well ahead of a year earlier. The continued downtrend in prices of hides and leather has slowed the advance in retail prices of footwear, but rises were still substantial, reflecting last fall's increase in wholesale prices as well as larger retail markups. Gasoline prices rose in August at the retail level as higher wholesale prices were passed on to consumer, and continued up in September. Seasonal reductions had begun at wholesale, however. Retail prices of cigarettes jumped sharply in delayed response to the June rise at wholesale and because of tax increases in several States.

Farm products and foods. Expanding supplies were chiefly responsible for the drop of nearly 4 percent in farm product prices. Delayed harvests of vegetables had flooded the market and caused fresh produce prices to fall more than they normally do at this time of year. Record-breaking crops resulted in a sharp drop in grain prices and expanded production pushed hog and poultry prices down. Even for those farm products which increased in price, such as eggs and milk, the third-quarter rises were mostly less than the usual seasonal amount.

Cattle prices, on the other hand, showed the largest quarterly increase since March 1966, and beef prices also rose despite expanding production.

Over the year, prices of farm products dropped 10 percent while processed foods prices declined less than 3 percent. This was an exceptionally sharp divergence between the two groups, although foods have tended to move up in relation to farm products for many years. While food prices rarely rise more than farm products in an uptrend, they nearly always fall considerably less in a decline.

Fluctuations in farm products and foods over the past year have been among the widest and most abrupt in the entire postwar period: Farm products fell 10 percent from September to April, recovered by 5 percent to July, and dropped back nearly 5 percent by September. Fluctuations in foods were in the same direction, but considerably smaller, especially in the declines.

Consumer services. About half the rise in the Consumer Price Index so far this year has been due to services, which constitute one-third of the index.

Charges for consumer services rose 1.0 percent in the third quarter—a fraction more than in either of the two previous quarters. Each major service group—rent, transportation, medical care, and household services—shared in the slight speedup, but except for rent, the rate of advance was still below the rapid pace reached in late 1966. (Table 5)

Significant developments in the third quarter included the slight acceleration in increases for rent, as vacancy rates continued low while maintenance costs and taxes rose; the largest advance in charges for electricity in recent years, due partly to higher rates and partly to new sales taxes on utilities in some cities; and a renewed advance in mortgage interest rates, which had edged down in the first half of the year after climbing steeply in 1966.

Medical care costs continued to rise more than any other service group. The speedup in the third quarter reflected higher dentists' and physicians' fees. The uptrend in hospital charges slowed further, but was still sizeable. Last year, hospital charges had been affected sharply by a round of large wage increases, initial coverage of hospitals under the minimum wage and overtime provisions of the Fair Labor Standards Act, and the introduction of Medicare. However, hospital rates continued to rise more sharply than most other medical costs.

TABLE 1A.—OUTPUT PER MAN-HOUR, HOURLY COMPENSATION, AND UNIT LABOR COSTS IN THE PRIVATE SECTOR, 1966-67

	Output	Man-hours	Output per man-hour	Compensation per man-hour	Unit labor costs
Percent change:					
Annual rate: 1947-66	3.7	0.5	3.2	4.9	1.7
From previous quarter:					
1966—1st	1.7	.7	1.0	2.1	1.0
2d	.4	—.1	.5	2.3	1.8
3d	.7	.7	.0	1.2	1.2
4th	.9	.3	.7	1.6	1.0
1967—1st	—.2	.4	—.7	1.1	1.8
2d	.5	—1.4	1.9	2.0	[1].0
3d	1.0	.7	.3	1.0	[1]8
Percent change—Continued					
In 4 quarters ending in (annual rate)—					
1966—1st	7.1	3.2	3.8	5.8	1.9
2d	6.1	2.3	3.8	7.0	3.1
3d	5.0	2.5	2.4	6.7	4.2
4th	3.6	1.5	2.0	7.1	5.0
1967—1st	1.7	1.2	.6	6.1	5.7
2d	1.8	.0	1.8	5.8	3.9
3d	2.1	.0	2.0	5.6	3.5

[1] Less than 0.05 percent.

Source: U.S. Department of Labor, Bureau of Labor Statistics.

TABLE 1B—OUTPUT PER MAN-HOUR, HOURLY COMPENSATION, AND UNIT LABOR COSTS IN THE PRIVATE NONFARM SECTOR, 1966-67

	Output	Man-hours	Output per man-hour	Compensation per man-hour	Unit labor costs
Percent change:					
Annual rate: 1947-66	3.8	1.1	2.7	4.6	1.9
From previous quarter:					
1966—1st	1.8	.9	.7	1.9	1.0
2d	.7	.4	.5	1.9	1.6
3d	.7	.9	—.2	1.0	1.2
4th	.9	.2	.7	1.5	.8
1967—1st	—.4	.2	—.7	1.5	2.2
2d	.6	—.7	1.4	1.4	[1].0
3d	.9	.4	.5	1.3	.8
Percent change—Continued					
In 4 quarters ending in (annual rate)—					
1966—1st	7.5	3.8	3.5	3.2	1.6
2d	6.8	3.6	3.3	6.0	2.8
3d	5.5	3.6	2.0	5.9	4.0
4th	4.0	2.4	1.6	6.3	4.7
1967—1st	1.7	1.6	.2	5.9	5.8
2d	1.7	.4	1.1	5.4	4.2
3d	1.8	.0	1.8	5.7	2.9

[1] Less than 0.05 percent.

Source: U.S. Department of Labor, Bureau of Labor Statistics.

TABLE 1C.—OUTPUT PER MAN-HOUR, HOURLY COMPENSATION, AND UNIT LABOR COSTS IN THE MANUFACTURING SECTOR, 1966-67 [1]

	Output		Man-hours	Output per man-hour		Compensation per man-hour	Unit labor costs	
	FRB	Census		FRB	Census		FRB	Census
Percent change:								
Annual rate: 1947-66	4.2	([2])	0.8	3.4	([2])	5.0	1.5	([2])
From previous quarter:								
1966—1st	3.8	3.2	2.1	1.6	1.1	1.5	—.2	.4
2d	2.1	.8	1.6	.4	—.9	1.4	1.0	2.3
3d	1.3	.5	.8	.6	—.2	1.6	1.0	1.7
4th	.9	1.7	.6	.4	1.1	1.7	1.4	.6
1967—1st	—1.5	—1.4	—.9	—.6	.5	1.6	2.1	2.2
2d	—.9	—.7	—1.5	.6	.8	1.2	.7	.5
3d	.6	.6	.2	.5	.4	1.5	1.0	1.0
Percent change—Continued								
In 4 quarters ending in (annual rate)—								
1966—1st	9.3	7.4	6.4	2.6	1.0	3.6	0.9	2.6
2d	9.6	7.6	7.2	2.4	.4	4.4	2.0	4.0
3d	9.4	5.8	6.5	2.5	—.8	5.1	2.6	5.8
4th	8.0	6.1	5.0	2.9	1.1	6.2	3.2	5.1
1967—1st	2.8	1.6	2.0	.8	—.4	6.3	5.5	6.7
2d	—.2	[3]0	—1.1	.8	1.2	6.1	5.2	5.0
3d	—.8	.2	—1.7	.8	1.9	6.1	5.2	4.2

[1] Employees only.
[2] Not available.
[3] Less than 0.05 percent.

Source: U.S. Department of Labor, Bureau of Labor Statistics.

TABLE 2.—SUMMARY OF PERCENTAGE CHANGES IN PRIVATE NONFARM COMPENSATION, 1964 TO SEPTEMBER 1967

[Changes are increases unless preceded by a minus sign]

Item	3 months ending in—					9 months ending in—				Annual data		
	September 1967 [1]	June 1967	September 1966	September 1965	September 1964	September 1967 [1]	September 1966	September 1965	September 1964	1966	1965	1964
Average hourly compensation [1]	1.5	1.2	1.3	1.0	1.8	4.4	5.0	2.4	4.0	6.4	([2])	([2])
Average hourly earnings [3]	1.9	1.5	2.0	1.2	1.7	4.6	4.8	3.8	([4])	4.4	3.8	([4])
Manufacturing	1.1	1.1	1.5	.8	1.2	2.9	3.4	1.9	2.0	4.1	3.1	2.8
Real average weekly earnings [3]	.9	1.5	.6	.6	.5	1.7	1.5	1.7	([4])	([5])	1.7	([4])
Manufacturing	.9	1.0	−.2	−.1	.1	−.2	−.3	−.6	.7	−.2	1.5	3.1
Real spendable average weekly earnings (worker and 3 dependents) [3]	.7	1.2	.4	.6	.4	1.0	.2	2.2	([4])	−1.1	2.2	([4])
Manufacturing	.7	.8	−.3	([5])	([5])	−.6	−1.8	.3	2.7	−1.8	2.2	4.9
Average union scale, building construction:												
Hourly wage rates	.6	3.6	.5	.4	.2	5.2	3.8	3.6	3.2	4.6	3.9	3.8
Wages and selected benefits	.6	4.1	.5	([4])	([4])	5.1	4.4	([4])	([4])	5.8	([4])	([4])

[1] Preliminary. The hourly compensation figures on this table pertain to nonfarm employees only (including private household employees); the self-employed and all farm workers are excluded.
[2] Average annual rate 1964–65 is 4.1 percent.
[3] Production and nonsupervisory employees.
[4] Data are not available.
[5] No change or change of less than 0.05 percent.

Source: U.S. Department of Labor, Bureau of Labor Statistics.

TABLE 3.—WAGE AND BENEFIT DECISIONS, 1963 TO 1ST 9 MONTHS OF 1967

[Possible increases in wages resulting from cost-of-living escalator adjustments omitted]

Measure	Median annual rate of increase in decisions reached during—								
	1st 9 months of—					Full year of—			
	1967 [1]	1966	1965	1964	1963	1966	1965	1964	1963
Major collective bargaining situations [2]—									
Wage and benefit changes (packages):									
Equal timing [3]	4.8	3.9	([4])	([4])	([4])	4.1	3.3	([4])	([4])
Actual timing [3]	4.9	4.4	([4])	([4])	([4])	4.5	([4])	([4])	([4])
Negotiated wage-rate increases averaged over life of contract:									
All industries	4.4	[6] 3.8	([4])	([4])	([4])	3.9	[7] 3.3	[7] 3.0	[7] 2.5
Manufacturing	4.4	([4])	([4])	([4])	([4])	3.8	([4])	([4])	([4])
Nonmanufacturing	4.5	([4])	([4])	([4])	([4])	3.9	([4])	([4])	([4])
Negotiated 1st year wage-rate increases:									
All industries	5.0	4.0	4.2	3.2	3.4	4.8	3.9	3.2	3.4
Manufacturing	5.0	4.2	4.2	([4])	([4])	4.2	4.1	2.2	3.0
Nonmanufacturing	5.0	3.9	4.0	([4])	([4])	5.0	3.7	3.6	3.5
Wage increases in manufacturing:									
Union and nonunion establishments combined	[8] 4.8	[8] 3.8	[8] 3.4	3.1	3.0	4.2	3.7	2.7	3.0
Union establishments	[8] 5.0	[8] 3.7	[8] 3.3	2.8	2.9	4.1	3.6	2.5	2.9
Nonunion establishments	[8] 4.4	[8] 3.9	[8] 3.6	3.3	3.3	4.4	4.0	3.2	3.6

[1] Data are preliminary.
[2] Except for packages, data are for contracts affecting 1,000 workers or more. Package cost estimates are limited to settlements affecting 5,000 workers or more (10,000 in 1965). The package cost of a few settlements, affecting relatively few workers, has not been determined.
[3] Based on estimated increases in hourly costs at end of contract period and assumes equal spacing of wage and benefit changes over life of contract.
[4] Data are not available.
[5] Takes account of actual effective dates of wage and benefit changes.
[6] Based on settlements affecting 5,000 workers or more.
[7] Based on settlements affecting 10,000 workers or more.
[8] Data apply to 1st 6 months of 1967, 1966, and 1965.

Source: U.S. Department of Labor, Bureau of Labor Statistics.

MEXICO, OUR GALLANT FRIEND, REAFFIRMS CONFIDENCE IN THE AMERICAN DOLLAR

Mr. KUCHEL. Mr. President, at the height of the international financial crisis which followed the devaluation of the British pound sterling several days ago, the money markets of the world—certainly most of them—were seeking to provide renewed confidence in the strength of the American dollar as well as to resuscitate the English currency. During the week which followed the unhappy announcement by the British Government, there were days of frenzied gold buying and selling on markets throughout the world by speculators who thought that the dollar price of gold would be driven up; that the United States would be forced to follow the example of Great Britain, and that our country would be compelled to announce a devaluation of our currency. Well over $300 million of gold changed hands on the London bullion market during that week.

In the midst of this international crisis, including the problem with respect to confidence worldwide in the American dollar, the President of France held a press conference in which he supported a return to the gold standard. His remarks, as I pointed out in a recent statement on the floor of the Senate, only served to undermine the "fundamental process of increasing harmony and cooperation among free nations." No one wants the devaluation of the American dollar—surely the major world reserve currency—except perhaps the anachronistic President of France.

But while General de Gaulle was engaged in his incredible criticisms of the American dollar, and of Western unity, as well, there were those nations which stood up to pledge their unswerving support to America and to our currency, and, beyond that, to the economic health of the world.

The most noteworthy action of all was taken by our truly great neighbor to the south, the Republic of Mexico. On the same day that De Gaulle held his press conference, Mexico publicly, and in ringing terms, affirmed its willingness and desire to maintain the price of gold at $35 an ounce, and voiced renewed confidence in the strength of the American dollar.

The Government of Mexico put all of its national gold reserve on the line in an unprecedented, courageous, and simply superb indication of international friendship and international assistance to a neighbor. I swell with pride in that act by the Mexican Government.

According to an article which appeared in the Wall Street Journal, Antonio Ortiz Mena, Mexico's Secretary of Finance, said that Mexico is confident that the price of gold and the parity of the U.S. dollar will not change.

The true meaning of unity and friendship among the nations of the world is tested in times of crisis. Mexico again has proven its dedication to the bonds of friendship which it shares with this Nation. By reaffirming its confidence in the American dollar, Mexico has rendered a service not only to America but to the economic strength of the world.

I speak, I believe, for all of the American people in saying, "Thanks, gallant neighbor and good friend. We shall never forget."

Mr. President, I ask unanimous consent that articles describing the action taken by the Government of Mexico, which appeared in the distinguished Mexican Spanish language newspaper,

Excelsior, of which I have a translation, and the Wall Street Journal and New York Times, be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

(Translation Spanish to English for Senator THOMAS H. KUCHEL)

THE GOVERNMENT DECIDES TO SELL ALL THE GOLD THAT THE PUBLIC DEMANDS—IF THEY LACK COINS, THEY WILL HAND OVER BARS—THE TREASURY GAVE THE RESPECTIVE INSTRUCTIONS TO THE BANKING SYSTEM

(By Adrian Vilalta, reporter from Excelsior Newspaper, Mexico, D.F., November 28, 1967)

The Government decided to sell all the gold that the public demanded and that is what they communicated to the Banco de México [Bank of Mexico] and to the banking system.

Mr. Antonio Ortiz Mena, Secretary of the Treasury, made the declaration yesterday to the reporters from the capital and announced these measures:

(1) The Casa de Moneda [Mint] will provide the banks with bars of fine gold—legal standard of 900 fineness—with a weight of 375 and 750 grams, equivalent to 10 and 20 centenaries, respectively, while more coins are minted.

(2) The pieces of 375 grams will be sold at 6,000 pesos [$480.00 U.S. approx.] and those of 750 at 12,000. [$960.00 U.S. approx.]

(3) The banks were authorized to issue vouchers for the sale of gold, documents which would be exchanged, at a later date, for centenaries, the operations began to take place yesterday in this capital and in all the country.

The head of Finance spoke about these arrangements and about the policy of unlimited selling of gold—the same policy as was adopted in the United States and seven of the eight European countries which form the gold pool—in an interview he held with the unusual background of the area where the strong boxes of the Banco de México are housed, more than ten meters under the cellars of the Guardiola building and protected building and protected by an armored dome.

The statements of Mr. Ortiz Mena and of the director of the Banco de México, confirm their conviction that gold will continue to be sold at 35 dollars an ounce; the dollar will maintain its parity and the peso its equivalence of 12.50.

The President of the Banker's Association, Mr. Ladislao López Negrete; the Director of the Banco Nacional de México [National Bank of Mexico], Mr. Agustín Legorreta and Mr. Manuel Espinosa Yglesias, President of the Sistema Bancos de Comercio, praised the government's resolution, supported its measures and pointed out the losses which those who have sold securities in order to buy gold would suffer, upon having to sell this metal in order to recover their investments.

Ortiz Mena, was convincing:

"The Government has decided to provide the public with all the gold which they demand and that is what they informed the Banco de México and the Mexican banking system."

He added: "We have never had such a strong situation in gold, silver and currency, in the Banco de México, as we have now."

He explained that the decision to manufacture bars of gold which are equivalent to 10 and 20 centenaries was made in order to facilitate for the banks and the public, the handling of large quantities of gold and also in order to give the Casa de Moneda [mint] time to mint all the gold which is needed.

The Casa de Moneda is working twenty-four hours a day in order to take care of the demand and in order to obtain that the minting be as quick as possible.

Simultaneously, the banks have been authorized—he announced—to deliver vouchers on the sale of gold for the quantities which the clients buy, without the necessity of physically handing over the quantity of gold which these documents have recourse to.

SUFFICIENT GOLD TO FLOOD THE MARKET

Don Rodrigo Gómez stated that more than half of the country's reserve is now made up of gold and silver. It makes available the equivalent of 260 million dollars; but "our sales capacity, through the possibilities of insuring against loss, is practically infinite, while the United States maintains the present price of 35 dollars per ounce."

The Secretary of the Treasury and the directors of the principal banks of the capital looked at the sacks and bags of gold held in the strong boxes of the Central Bank, jealously guarded and provided with modern alarm systems, at the moment when Mr. Rodrigo Gómez made this precise statement: "We can flood the market with gold."

He explained that the last shipment arrived from Canada. It was six tons, in pieces weighing 12.5 kilograms each.

Mexico has deposits in that country, in New York, Fort Knox and in Switzerland.

Our reserve is here, in part physically and the rest available within less than four hours distance from our capital and within seven, for that which is in Switzerland, in a way that we can quickly concentrate it at any moment.

The gold deposited in the Bank of Mexico comes from Canada and South Africa and also from the Mexican production, mainly Peñoles and ASARCO.

(The gold production in our country was 6,644 kilos last year, with a value of 92,383,447 pesos.) [$7,390,675.76 US.]

Answering the questions of the reporters, he pointed out that the gold reserves of the United States approach 13,000 tons and to a similar quantity that of the countries who make up the gold "pool" to reaffirm his confidence that the avalanche of purchases unleashed in Europe will be successfully met.

WORD FROM MR. LÓPEZ NEGRETE

The President of the Bankers' Association, Mr. Ladislao López Negrete, said the statement by the Secretary of the Treasury was highly important, in that the public will be able to buy all the gold it wishes, and he praised the authorization granted to the banks to issue sales slips as substitution for minted coins, a measure which was taken due to the lack of minting capacity of the Mint and this will facilitate the operations.

ESPINOSA YGLESIAS' SATISFACTION

The President of the Commercial Banks System, Mr. Manuel Espinosa Yglesias, for his part, commented: "Who have all seen the gold that exists in the hands of the Bank of Mexico". The provisions dictated by the Secretary of the Treasury will allow the public to buy in an unlimited way, and private banks to make the sales in the volumes that each person can purchase or that the savers request.

The Director General of the Bank of Mexico, Mr. Agustín Legorreta commented that it is evident that those who jumped the gun and bought gold and for this, sold securities are going to experience noticeable losses upon selling it again to recover their investments. The uneasiness caused by the measures that were taken in Europe owing to the devaluation of the pound "those who exchanged securities for gold in order to protect themselves from a sickness that doesn't exist here in Mexico are going to pay dearly."

THE SALES OF GOLD LAST WEEK

Mr. Rodrigo Gómez confirmed the off-the-record reports supplied by EXCELSIOR, about the sales of coined gold. He affirmed that last week twelve million gold pesos were sold, an extremely high figure for our market, inasmuch as it is equivalent to the usual demand for a whole year.

The demand yesterday was solid but less in quantity than Saturday. The banks in the capital received in the first hours 50, 20 and 10-peso coins. The public bought them out rapidly.

The bars that are equivalent to 10 and 20 centenaries will be for sale all day today, although the private banks, which very early had been informed about their fabrication, had been waiting for them and offering them to their clients.

In most institutions one started expediting the "vouchers for gold sales in centenaries" authorized by the Government and the Bank of Mexico.

A few banks distributed their gold reserves among their clients in the following form: 20% in centenaries; 20% in 20 and 10-peso gold coins and the remaining 60% in sales constancies, issued for 90 days, within which the demand will have been satisfied to the extent that the exchange can be carried out.

REQUISITES FOR THE EXCHANGE OF BARS

The Mint manufactures pieces of 350 and 750 grams of gold which are equivalent to 10 and 20 centenaries. And they will then be exchanged for this class of coins of "50 gold pesos." Nevertheless, there will be a "previous test" to avoid falsification of these coins and lucrative speculations as to their contents.

Don Rodrigo Gómez stated: We will try to avoid—and there is never a lack of profiteers—that someone will make this gold "sweat."

As a result, the purchasers will be able to keep the vouchers sent to them by the bank and exchange them for the centenaries or reconvert them in actual money at the purchase price the gold will have at the moment when the transaction takes place.

THE PRICE WHICH THE PUBLIC PAYS

The price of the "centenario" is 600 [$48.00 U.S.] pesos. This value is equivalent to 12 [$.96 U.S.] pesos for each gold peso. Nevertheless, the centenario has a gold contents of 37.5 grams. The ounce is equivalent to 31.1035 grams and costs $35.00—14.06 [$1.16 U.S.] peso per gram—so that the gold minted in coins costs $1.94 pesos more per gram and this is above the quotation on fine gold on the European market, that is gold bought in lingots.

The statement made by the Secretary of Commerce must, therefore, be interpreted in the sense that the gold sale will be continued at the price previously quoted: 600 pesos per centenario that has a contents of 37.5 grams. The same applies to the bars that are temporarily sold in order to satisfy the exceptional demand at present.

PERSONS WHO ATTENDED

The Secretary of Commerce and the Director of the Bank of Mexico met at the early hours of today in the office of the latter with a group of private bank leaders who visited the armored vaults of the bank together with the newspapermen. To this group also belonged Licenciate Jesús Rodriguez y Rodriquez, Under-Secretary of Commerce; Licenciate Enrique Landa Berriozábal and Ernesto Fernández Hurtado, Directors of the Bank of Mexico; Ladisalo López Negrete, President of the Association of Bankers; Héctor Flores, Vice President of the latter; José Antonio César, Director of the International Bank and Felipe Sandoval Hoyer, Director of the Mexican Commercial Bank.

(Translated by Paul Vidal, Wesley Kerney, Martha Huertas.)

[From the Wall Street Journal, Nov. 28, 1967]

MEXICO PLACES ALL OF ITS GOLD BACKING $35 PRICE—EIGHTH-LARGEST PRODUCER OF METAL WOULD BE WILLING TO SELL $260 MILLION HOLDINGS—SOME SPECULATION SUBSIDES

Mexico late yesterday said its gold is for sale without limit up to the $260 million of bullion and coins in the national bank reserves.

The Mexican statement affirmed willingness to maintain the price of gold at $35 an ounce. A similar intention had been voiced Sunday by representatives of the international gold pool after a meeting in Frankfurt, Germany. Both statements followed days of frenzied gold buying on European markets by speculators who thought that the price of gold would be driven up, and that the U.S. dollar would thus be devalued.

In Mexico, where gold coins and bars can be purchased from the nation's banks, more than $1 million in gold was sold last week. That is more than had been sold in the entire last year, the government disclosed. The government statement was designed to curb panic buying.

Speculative fever in the big London and Zurich gold markets had already begun to abate yesterday despite continued heavy demand in the smaller Paris, Brussels and Frankfurt markets. Gold-share prices also dropped in Johannesburg and London.

Dealers attribute the easing of demand to assurances from the central banks of seven key industrial nations Sunday that the $35-an-ounce price of gold would be maintained.

London bullion dealers reported that French President de Gaulle's pointed press conference remarks to the effect that the devaluation of the British pound may trigger a return to the gold standard had almost no effect on after-hours trading.

Antonio Ortiz Mena, Mexico's secretary of finance, told a press conference late yesterday that Mexico is confident that the price of gold and the parity of the U.S. dollar won't change. Ridrigo Gomez, director of the Bank of Mexico, added that "our (Mexican) capacity to sell gold is infinite so long as the U.S. maintains the price of gold at $35 an ounce."

Mexico is the world's eighth largest producer of gold. Production in 1965, the latest year for which figures were immediately available, totaled 7.6 million. South Africa, by contrast, the world's largest producer, had a 1965 output of slightly more than $1 billion in 1965, according to the Federal Reserve figures.

Well over $300 million of gold changed hands on the big London bullion market last week, it's estimated. Though gold-buying was still heavier than normal yesterday in London, it was well below the record pace of last Friday and prices eased fractionally.

But in the relatively small, Paris gold market, gold sales eclipsed even last Friday's record pace, and the trading session had to be extended 15 minutes to cope with an influx of orders. Turnover amounted to about $12.7 million, up from about $12.5 million Friday. Dealers attributed much of the demand to investors who expected President de Gaulle to call for a higher gold price.

In Zurich, where much of last Friday's activity originated, dealers reported demand was about half Friday's level. Gold prices eased slightly from Friday at the opening, then improved in lighter trading prior to the de Gaulle press conference. After the conference, in which Gen. de Gaulle refrained from threatening a direct French gold buying attack on the dollar, prices dropped to below opening levels.

Last week the five big Swiss banks halted forward selling of gold and the sale of gold on credit. Over the weekend, according to bankers and dealers, the Swiss National Bank directed the five largest Swiss banks to supervise all gold sales, clamp down on speculation, require full payment for gold and in some cases limit sales of gold to customers with less than top credit ratings.

Swiss banks also refused to sell gold to foreign banks seeking to buy in Switzerland and told them to go directly to the London market instead. One London dealer praised the Swiss moves, saying "it's now extremely difficult for speculators without funds to play the market. I'm personally convinced much, too much power is on the side of the U.S. Treasury" for speculators to stand a chance.

Heavy speculative demand for silver was reported on the London metals market as British citizens apparently sought a medium for switching out of paper currency. Like U.S. citizens, British citizens are prohibited by law from hoarding gold.

Silver for spot, or two-day, delivery rose to a record $2.20 an ounce, while contracts for future delivery advanced to a record $2.235. Both prices were up 10 cents from Friday's close.

[From the New York Times, Nov. 28, 1967]

MEXICAN GOLD FOR SALE

MEXICO CITY, November 27.—Mexico announced today that her gold was for sale without limit up to the $260-million in the national bank reserves.

Antonio Ortiz Mena, the Secretary of Finance, said Mexico was certain that the price of gold would not change.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS ACT OF 1967

The Senate resumed the consideration of the bill (H.R. 7819) to strengthen and improve programs of assistance for elementary and secondary education by extending authority for allocation of funds to be used for education of Indian children and children in overseas dependents schools of the Department of Defense, by extending and amending the National Teacher Corps program, by providing programs of education for the handicapped; to improve authority for assistance in schools in federally impacted areas and areas suffering a major disaster; and for other purposes.

Mr. MORSE. Mr. President, I think it is obvious to anyone observing the proceedings this morning that Senators on both sides concerning the Griffin amendment have been following a course of action on the floor of the Senate which has postponed a vote.

The Senator in charge of the bill not only pleads guilty to that; but he also proclaims it, because that was his responsibility as the Senator in charge of the bill.

I am ready to go to a vote now, but I also have other responsibilities of cooperation. It is also known that a very important conference is being held by many Senators during the luncheon period. There is much more to be said on the bill, and therefore, in the spirit of cooperation, I shall continue to follow a course of action which will postpone a vote until that luncheon is over. However, I want the record to show that I am ready to go to a vote now.

Before I close, let me say something also on the matter of procedure, and then say something about the Dirksen amendment.

As the Senator in charge of the bill, I have invested not only many, many hours, but also days and days of work on it. I am very much interested in passing it before we adjourn until next January. But I do not speak for myself alone when I say that for the good of the school systems of the country and also for the good of the country, it would be better to postpone action on the bill until the next session of Congress, if, under the stresses, strains, and pressures of the closing days of this session of Congress, actions were to be taken regarding amendments to the bill which would prove, as I am sure they would prove in this short period of time, to be unwise actions.

Speaking only for myself, although other Senators share my view, and the number has been increasing in the last few hours, I would rather not have a bill until after we reconvene next January, if proposals to add so-called civil rights amendments to the bill are in any danger of being passed.

Speaking again only for myself—and it is my own personal opinion—I cannot think of a greater mistake we could make, so far as the education bills in this country are concerned, than to adopt amendments that would involve modifications or exemptions in the Civil Rights Act and the court decisions for carrying out constitutional guarantees. Any such amendments, in my judgment, would represent such a great mistake in public policy, legislatively, that I think we should talk to the people first.

I think we should talk to the people back home. We would need to talk to the school people, talk to the parents, talk to our citizens generally. If it develops that there is a danger of causing what I think would be damaging consequences to the education program in this country through changes in carrying out the civil rights program which has been decreed by the courts. I must oppose such actions. These are decisions in which most of us believe—although many disagree with me—and which, in my opinion, are completely sound.

When I have a responsibility such as the one that is mine at the present moment, I always deal with Senators on the basis of full disclosure. That does not mean that what my desires are, should necessarily prevail. But at the present moment, if someone said to me, "You have a choice of taking the education bill with 'civil rights amendments' attached to it or no bill at all," I would not have any trouble at all in making a quick reply, "That will be all right. Let's go home and talk to the people."

That is consistent with our great representative system of government—our checking with the people. They should have an opportunity to advise us over the Christmas holidays as to what they think we should do with so-called civil rights amendments. It will result in some inconvenience and some losses. I know that. But the greater loss would be for us to set back, or create the image that we are setting back, the civil rights program in this country.

Yesterday, I discussed briefly and placed in the RECORD the Associated Press news ticker announcement of the decision of the Supreme Court with respect to Alabama. The decision made it very clear that the attempt on the part

of the State government of Alabama to slow up integration was rejected by the Supreme Court.

That is the law of the land. I think we should carry it out. I feel that some of the amendments that I have been told will be offered, but have not yet been offered, are amendments which I think cannot be reconciled either with court decisions or with the Civil Rights Act of 1964.

In a democracy, it is good when this kind of split develops in the Congress. We saw by the votes yesterday how close that split is. Perhaps wisdom directs that we should talk to the people. All I am saying is that I think we had better be giving some consideration to the possibility of laying aside this bill until next January, if the alternative is to accept education legislation which, in the judgment of many of us, would be a serious retreat.

Again, speaking only for myself, I think that such a course of action, at least on the part of Senators on this side of the aisle, should be considered carefully. I do not mean to imply that Senators on the other side of the aisle may not also believe in the implementation of the 14th amendment, so far as the decisions of the courts in respect to civil rights are concerned.

But as the manager of the bill and as a member of the Democratic Party, I think that the Democrats in the Senate would not serve the President well if we passed a bill that could not be reconciled with the courageous, and sound position that the President has taken in the field of civil rights. In fact, I think that when the history of President Johnson's administration is written, one of the great monuments of statesmanship that he will have erected is the leadership that he has given to the people of the country, and which has been indelibly written into the history of our country, in the field of civil rights.

I say to Senators on my side of the aisle that we could not possibly justify in any way detracting from the great civil rights record of the President. I think we would do that by any amendment in the field of civil rights that has been suggested to me as a possibility of being added to this education bill. After all, although we have legislative responsibility, we also have a responsibility of stewardship and a responsibility of trusteeship. We have an obligation, in my judgment, before we take any such unfortunate step, legislatively, to check with the people. If we do check with the voters of the country, we Democrats will find that for us to support any retreat in the field of civil rights would cause irreparable damage to our party and great damage to the President, and would be a most unwise course of action.

I have made these statements, not asking for or expecting unanimity of agreement. I have made them because, as the manager of the bill, I believe that Senators are entitled at least to know what is going through my mind, so far as the recommendation of a parliamentary course of action to the Senate is concerned. I am not ready, at this moment, to recommend that action on the bill be postponed until January. I merely wish to point out to Senators on both sides of the aisle that I think most sober consideration should be given to the implications and the probable result of a retreat on civil rights in the form of amendments that would result, in their application, in a slowing up and in a weakening of the implementation of President Johnson's great program in the field of civil rights.

That causes me to say only this briefly in regard to the Dirksen amendment. I hope Senators have taken the time, since the debate yesterday, to reflect on the basic objection to the Dirksen amendment which the Griffin amendment seeks to correct.

I spoke a few moments ago about the nonpartisanship or bipartisanship of the work of the Senate Committee on Labor and Public Welfare in the field of education. The Senator from Michigan [Mr. GRIFFIN] is a member of that committee. He has done a magnificent job as a member of that committee. He has demonstrated time and time again that he is going to deal with basic principles in the field of education. That is what he is dealing with in the Griffin amendment. He is seeking to implement, legislatively, a principle that we all agree on in the committee; namely, that the Federal Government shall not in any way dictate educational policy at the local level; that the only area in which the Federal Government has a right to lay down a mandate of policy is in the field of constitutionalism; and that, when a particular constitutional issue is raised, be it involving education or labor or any general welfare legislation, the Federal jurisdiction growing out of the constitutional responsibilities of the Congress come into play.

The Senator from Michigan [Mr. GRIFFIN] in his amendment is simply seeking to make perfectly clear by legislative mandate that no Federal funds shall be used for busing if the Federal Government is responsible, directly or indirectly, for the busing.

In other words, if the Federal Government seeks to impose busing upon any local school district, then the Griffin amendment says Federal funds cannot be used. It makes it perfectly clear that, if the Department of Health, Education, and Welfare or any other department sought to accomplish such an improper end, it would be prohibited.

But, Mr. President, the Dirksen amendment does not limit itself to that. The Dirksen amendment prohibits any local school district from deciding as a matter of local policy that busing is desirable to meet an educational problem in that school district. If, in the opinion of that local school board, that problem ought to be met by way of busing, it could not be done.

I am at a loss, may I say good naturedly and most respectfully, to find so many of my close and beloved Southern friends in the Senate supporting that amendment. For years and years and years I have heard them oppose, and I joined with them, in opposition to any attempt on the part of the Federal Government to interfere with true States rights. If there ever was a States rights issue raised by any amendment on the floor of the Senate, the Dirksen amendment raises it.

The Dirksen amendment proposes that the Federal Government, by its interference, shall say to a local school board, "We don't care what your problem is with regard to racial problems in your district. You can't use a dollar of any Federal funds to which you are entitled for busing."

If that is not destruction of States rights, with respect to these operative facts, I do not know what is. I think that would be an abuse of our legislative responsibility. I hope such a precedent will not be established here on the floor of the Senate.

The Senator from Illinois had much to do with the final form of the Civil Rights Act of 1964. I think the RECORD will show he said yesterday the final draft of the act was prepared in final conference in his office. I think that is true. I know it is true that the Senator from Illinois had much to do with the compromises that resulted in the Civil Rights Act of 1964.

He argues that his amendment is necessary, apparently, to prevent the Federal Government from involving itself in busing. Well, I most respectfully say that the Civil Rights Act speaks for itself. The Federal Government, under the Civil Rights Act, cannot direct busing. Let me say there is not a scintilla of evidence to show it can. If there is, I ask for it to be presented in this debate. We went into this question in great detail and great depth in the deliberations of the Subcommittee on Education.

It is one thing to make a charge; it is another thing to prove it. I wish to say, Mr. President, that the Department of Health, Education, and Welfare—and I am their witness at this point—has never been successfully charged with ordering any busing. The evidence is quite to the contrary. The Department recognizes that, under the 1964 law, it cannot involve itself in any such program.

Mr. President, what the Dirksen amendment does is, in effect, tell the States that they cannot do so either. A State could not use Federal funds to which it is entitled under the law for this type of solution to a pressing educational problem that involves matters of racial imbalance.

Is the Federal Government going to say that school officials cannot solve a local problem as they wish to, unearmarked by legislative purpose? It can, in effect, say so under the Dirksen amendment. A school district in Illinois, or in Massachusetts—and I have been using the Massachusetts example, and will come back to it in a moment—cannot have a school busing program to solve a local problem in the manner that the local officials feel it ought to be solved, and use therefor Federal funds to which they are entitled under the education program.

Name for me a better example of an attempt on the part of the Federal Government to dominate educational policy at the local level. I cannot.

So what does the Griffin amendment propose? It proposes that the Dirksen

amendment be modified so as to provide that no Federal funds can be used if the Federal Government or any of its agencies or officers initiate, directly or indirectly, a program of busing. It is already covered by the Civil Rights Act.

"Oh," says the Senator from Illinois, "the purpose of the Griffin amendment is to gut my amendment."

The Senator can use his own word, but I wish to state what I think is the obvious purpose of the Griffin amendment. The purpose of the Griffin amendment is to protect States rights. One of the results of the Dirksen amendment would be to destroy them on this matter.

The purpose of the Griffin amendment is to make crystal clear, as far as legislative intent is concerned, to the Department of Health, Education, and Welfare or any other agency of the Government, that they shall not seek to dictate the policies of a local school board.

The result of the Dirksen amendment is to do exactly that—to dictate the policy of a local school board in regard to the matter of busing.

"But let them use State funds," says the Senator from Illinois. In his argument yesterday, he said—and I paraphrase him, but I think accurately—that he did not see why the taxpayers of Peoria, Ill., should pay for busing in Massachusetts.

Mr. President, I say most respectfully that he does not seem to recognize the loss of identity of Federal funds. He overlooks the fact that you and I, Mr. President, are dual citizens. We are citizens of our States, and we are citizens of our Federal Government; and we have dual responsibilities. Because we pay taxes called Federal taxes, it does not follow that when those taxes go into the Treasury of the United States for Federal policy, we have some claim on our share of the money that went into the total pot. A claim to say that we will not permit any of that money to be used by a local school board that is entitled to that money, under an authorized project of legislation, to carry out a busing program. The identity of those Federal tax dollars is lost in respect to their application to this kind of a problem.

Do not forget, Mr. President, as I said last October 6 on this floor, when I discussed this issue in my responses to statements of the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Wisconsin [Mr. NELSON] that the Elementary and Secondary Education Act provides for a program for special projects in title III, which is continued in the new bill—one of the most popular and most needed authorizations in the entire bill.

We need that special project program, Mr. President, also to give even further assurance of the right of local school boards to develop their own projects. The program provides funds which can be used for any variety of projects which a local school board wishes to develop to meet the special educational needs of the school district.

Some such special projects, Mr. President, deal with the field of audiovisual education; others provide special programs for the handicapped. It can cover a myriad of special projects, including busing. That is what some local schools want.

But do not forget that when a program such as this is created, or one under title I, ESEA, then all school districts are entitled to their fair share under the formula—to use in accordance with local educational policy, not with dictation from the Federal Government.

So, it is proposed under the Dirksen amendment that they cannot do it if the funds are for busing. It is proposed that if the project involves busing they have got to use State funds or local funds. Are we going to set a precedent for saying that about the purposes of all of these other projects?

Some people do not like counseling work. Some of the special projects deal with the payment and the provision of funds for hiring specially trained experts in the field of counseling, which includes counseling in regard to the techniques that have been developed for the retarded student, counseling for the emotionally disturbed, and counseling for those students that have the behavior pattern that we call characteristics of the truant. Do we want to pass an amendment setting a precedent for saying that we cannot use any Federal funds directly or indirectly for any of those projects?

When we pick something out, as is done in the case of the Dirksen amendment, and say that cannot be done, then we have a Federal mandate of interference with the local school board. The Dirksen amendment, in my judgment, sets a very bad precedent. It should be rejected.

We must understand this principle that has run through, as I said yesterday, all of the Federal aid bills from the very first one I cosponsored. This particular issue of a guarantee against any danger of interference was really laid to rest in 1947 by Bob Taft in what I have always said is the pacesetter, examplemaker, the mold for Federal aid to education. I refer to the famous Taft bill of 1947, of which I was privileged to be one of the sponsors.

Go back to the RECORD and read the pronouncements of the then Senator from Ohio and others who participated in the debate, because in those days we were greatly handicapped in getting legislation passed. In fact, the Taft bill was beaten in 1947 on this issue. The then Senator from Ohio laid down the argumentative precedents that the rest of us picked up in the years following until we finally used them successfully in the adoption of a whole series of Federal aid to education bills that has resulted in what President Johnson has referred to as the legislative miracle in the passing of education legislation.

What did Bob Taft lay to rest? It involved the very point that I am making in my opposition to the Dirksen amendment. He made it very clear that legislation should be so understood as never to permit or authorize the Federal Government in any way to interfere in determining the education policy at the local school level.

That is the principle. That is the principle that we cannot reconcile the Dirksen amendment with. It does not justify passing that amendment merely because a lot of Senators do not like the idea of busing in order to eliminate racial imbalance. I do not either. I think there are better ways of handling it. However, my subjective judgments or the subjective judgments of the Senator from Illinois or any other Senator are not relevant in the determination of the issue I have raised.

That matter is up to the local authorities. I do not intend to support an amendment that I think would establish a very dangerous precedent and create unbelieved misunderstanding across this country.

Pass the Dirksen amendment and we will answer for it. Pass the Dirksen amendment and we assume the responsibility for what I am satisfied will be agitation at the local levels in this country in opposition to this kind of intervention on the part of the Federal Government in a field into which it has no business trespassing—the field of the local control of education.

Mr. President, I have a duty, as I see it, for whatever it is worth, as the manager of the bill to make a record here today forewarning the Senate as to what I think would be a most dangerous precedent.

I think that instead of moving along toward a better understanding and a more rational solution to our civil rights problem, this would throw the country backward and create great problems for us. That is why I speak out against it at this time.

I think the Massachusetts hypothetical that I used on October 6, 1966, and used again yesterday, is the best answer I can give. It was the answer last year, it will be remembered, that won for me the votes here in the Senate when, as manager of the bill, I announced that I would accept the Fannin amendment which eliminated from the bill the words "racial imbalance."

I took the position, as the RECORD will show, that on the operative facts of that issue, what the Senator from Arizona was seeking to do was to eliminate words that might be used by a Federal official to seek to justify a regulation or an administrative order that would involve the Federal Government in seeking to interfere in what it called a problem of racial imbalance in connection with a local school board policy.

When I announced that I would accept the amendment, I immediately, as the RECORD shows, was bombarded with some questions from my colleagues, the Senators from Massachusetts and Wisconsin among others. And I discussed the Massachusetts hypothetical.

It should be pointed out that in the Boston School District, the school board decided that the best way for it to meet the imbalance that existed because of an overcrowded, poorly equipped, understaffed Negro school in a ghetto of Boston was to bus a proportion of the students to a new school with the best of equipment. Instead of having 50 students in a classroom, there were only 18. Instead of having an undersupply of teachers, there was an adequate number of teachers.

The bill, with its program of special projects in title III, left to the Boston School Board the authority to decide whether or not it wanted to adopt, on a local basis, a busing program. It had a right to do it; it should have the right to do it. The Dirksen amendment would prevent it. It is no answer to say, "Let the Boston School District or School Board pay for it." That is an interference. Just the saying, "Let them pay for it" is an interference; because you are saying that you are going to earmark special project funds for purposes other than those the local school board thinks would best serve the local educational needs.

For this reason, I repeat, for emphasis, my objection to the Dirksen amendment: It is an invasion of States rights—true States rights.

I commend the Senator from Michigan [Mr. GRIFFIN] for his amendment, which would remove this objection and, at the same time, carry out the only legitimate right that I think the Senate has in this field—to make perfectly clear that no interference, no dictatorial policy of the Federal Government will be imposed upon any local school board in deciding what its educational policy will be, except—as I have said over all the years—when a policy involves a conflict with the Constitution.

That is my case, in summary, against the Dirksen amendment; and in due course, after further debate, I shall be ready to vote on the Griffin amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LAUSCHE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUSCHE. Mr. President, yesterday, in a colloquy among the Senator from Oregon, the Senator from Virginia, and myself, an effort was made to determine what the pending bill, in amount, would increase the expenditures for the years 1968, 1969, 1970, and 1971 over the year 1967. Regrettably, that colloquy did not clarify the figures that reflect the actual situation that will exist. The colloquy, in fact, confused the situation; because in the report, on page 53, is set forth a table which was construed by the Senator from Oregon, the Senator from Ohio, and the Senator from Virginia, as comparing likes for the years 1968, 1969, 1970, and 1971, when in fact the table erroneously does not make comparison of likes for likes, but sets up a schedule for 1968 that was different than the schedules for 1969, 1970, and 1971.

The question was: By how much does the pending bill increase the authorizations of expenditures for 1968, 1969, 1970, and 1971 over 1967? A reading of the RECORD of yesterday dealing with the question involved indicates the material was not accurately set forth.

Yesterday it was discovered that the colloquy produced erroneous impressions and finally it was asked that the experts in the Department of Education submit figures which would be understandable and which would clearly set forth by how much the bill would increase the expenditures in this field.

In yesterday's RECORD, on page 34912, there is set forth a tabulation of the authorizations made for the year 1967, and the appropriations made for the year 1967. I wish to give those figures as now being the report made by the Department of Education concerning the actual facts on how much was authorized for expenditure in 1967 and how much was appropriated.

Therefore, Mr. President, as shown on page 34912 of the RECORD of December 4, 1967, the figures show that $2,357,-043,000 was authorized for expenditure in 1967. I wish to repeat. In round numbers, $2,357,000,000 was authorized for expenditure in 1967. The amount appropriated in 1967 was $1,815,000,000 or $500 million less than was authorized.

Now the question would immediately arise: How much was appropriated for 1968? Three billion, nine hundred million dollars was authorized and $2 billion was appropriated, or 50 percent of the authorization was appropriated for the 1968 program.

Now, going down to the year of 1969, I shall compare and set forth the amount the House bill authorized, the amount the Senate bill contemplates authorizing, and the difference.

For the year 1968, under the existing law, there was authorized for expenditure $3,965,000,000. That is $1,600,000,000 more than was authorized in 1967.

Mr. President, at the risk of the charge of repetition, I shall repeat. The present law authorizes an expenditure of $3,900,-000,000 as compared to $2,300,000,000 for 1967, the difference being $1,600,000 more.

The House bill for the 1969 fiscal year, which will begin July 1, 1968, authorized an expenditure of $4,141,000,000. The Senate bill authorized an expenditure of $4,505,000,000. The Senate bill authorization was $364 million over that of the House.

I now compare the 1969 authorization of the Senate in the amount of $4,505,-000,000 with the 1967 authorization of the Senate, which was $2,367,000,000. The authorization for 1969 is practically 100 percent over that of the year 1967.

Mr. BYRD of Virginia. Mr. President, will the Senator yield for a question?

Mr. LAUSCHE. I yield.

Mr. BYRD of Virginia. I wish to ascertain whether I understand the Senator accurately.

The authorization for the year 1967 was $2,357,000,000 in round numbers.

Mr. LAUSCHE. In round numbers. The Senator is correct.

Mr. BYRD of Virginia. Now, the authorization we are asked for the upcoming fiscal year is $4,505,000,000, in round figures.

Mr. LAUSCHE. The authorization which this bill contains for the fiscal year 1969, which will begin on July 1, 1968, is $4,505,000,000, or in other words, 100 percent more than the authorization for the year of 1967.

Mr. BYRD of Virginia. Then, to phrase it another way, what this bill envisions, assuming the expenditures authorized under this act are appropriated and spent, the authorization would lead to expenditures of almost double what they were just 2 years ago.

Mr. LAUSCHE. By 2 years ago what period does the Senator mean?

Mr. BYRD of Virginia. Fiscal year 1967. In other words, the fiscal year 1969 compared with the fiscal year 1967.

Mr. LAUSCHE. The appropriations for the year 1967 was $1,815,000,000. The authorization for the fiscal year 1969 contained in this bill is $4,505,000,000.

That would mean 150 percent more authorized than spent in 1967. I do not know whether that answers the Senator's question.

Mr. BYRD of Virginia. The Senator has answered the question. Leaving out precise figures, what it means is that the Senate is being called upon now to make tremendous increases in the authorizations over what the figures were prior to 2 years ago—that is, for fiscal year 1969 as compared to fiscal year 1967.

Mr. LAUSCHE. I will point out those figures again. In fiscal year 1967, which expired on June 30, 1967, we authorized $2,357 million. For fiscal year 1968, we are authorizing $3,965 million, which is $1,600 million more than in 1967.

I now go to 1969, to answer the question which the Senator put. In 1967, $2,357 million. In 1969, we are authorizing $4,505 million, which is practically 100 percent more than 1967.

Mr. BYRD of Virginia. In other words, practically double 1967.

Mr. LAUSCHE. That is right.

Mr. BYRD of Virginia. I thank the Senator.

Mr. LAUSCHE. I think the Senator from Virginia would be interested in this: How much did we actually appropriate and, in all probability, spend in 1967? The answer is, we appropriated and, in all probability, spent the entire appropriation of $1,815,000,000 in 1967.

How much are we now authorizing for 1969? The sum is $4,505,000,000, which is 150 percent more than we actually spent in 1967.

Mr. BYRD of Virginia. Which was 2 fiscal years ago.

Mr. LAUSCHE. Two fiscal years ago, that is right.

In fiscal year 1967 and 1968, and 1969. In 1969, we will be spending, if the whole authorization is utilized, 150 percent more than we spent in 1967.

The interesting question is: Perhaps this is a good program, but what about the fiscal situation? I should like to hear what the Senator from Virginia has to say on that.

Mr. BYRD of Virginia. What the Senator from Ohio is concerned about, as I see it, is not that there is no merit in the program—we are not arguing its merits or demerits——

Mr. LAUSCHE. Not at all.

Mr. BYRD of Virginia. We are arguing whether it is wise, at a time of great fiscal stress which faces the Nation, whether we can afford to pass an authorization bill for fiscal 1969 which would be double the appropriation for fiscal 1968.

In that respect, I point out, in regard

to the $4.5 billion, that to raise that amount—and we are running a heavy deficit now—would take a surtax of 4½ percent. Levying a 1 percentage point on a surtax is equivalent to taking in roughly $1 billion. Thus, what we are dealing with in the pending bill would be to authorize $4.5 billion in expenditures, assuming the money is appropriated, so that we will be in effect saying that we need a 4½-percent surtax in order to finance it, unless we are going into more deficit financing. The President has said time and again over the past 6 to 10 months that this Nation is facing a grave fiscal crisis. Indeed, I think that it is facing a grave fiscal crisis.

The President has done a great deal to focus attention on it. I do not think that he has done very much to cut expenses but he has done a great deal to focus attention on the grave fiscal situation which exists in the country today. What concerns me is the size of this program. We are being called upon to vote for $14 billion over a period of 3 years and an authorization for the upcoming year of $4,500 million compared with an expenditure of $2 billion just this current fiscal year.

Mr. LAUSCHE. That is correct.

On the subject of promoting education, I am certain that there is no Senator here who does not want to expend the maximum amount of money available to promote education. But, we have to be realistic about it. Realism requires that we take into consideration the money available through reasonable taxation to provide the services which new and desirable programs demand.

The weakness of what has been occurring in Congress is that there has been an absence of realism, that desirable and what are deemed to be essential programs are being promoted without any thought of the ability of the taxpayers to finance the programs and without any thought of what will happen through repeated deficit operations.

At this point, I repeat, in fiscal year 1967, which ended on June 30 of this year, we appropriated and spent $1,815,000,000 in the general program. It is proposed by the bill that as against expenditures of $1,815,000,000 in fiscal 1967, we authorize $4,505,000,000, which is 150 percent more than was authorized in the 2-year period over what was spent in 1967.

Mr. BYRD of Virginia. I feel that the Senator from Ohio is rendering an important service not only to the Senate but also to the Nation in focusing attention on some of the fiscal problems concerned with this legislation now before us.

Much of yesterday was taken up with other aspects of the legislation but, to my way of thinking, it is so vitally important that Congress realize, and the American people realize, the tremendous sums of money involved in the programs, not only tremendous sums of money involved but also tremendous increases which are being proposed in the upcoming years, compared with the appropriations of the current fiscal year and the one prior to that.

It is just a matter of arithmetic, Mr. President, that if we are to come anywhere near balancing the Federal budget—and the President has been seeking and demanding a 10-percent tax increase—if he really wants to balance the budget, if Congress wants to balance the budget, leaving out the new bills we want to pass, it would take a 20-percent tax increase. I am very doubtful whether the people of this country are willing to stand for such tremendous increases in taxes as they will be called upon to pay if these tremendous spending programs are continued and increased, as this bill proposes.

The Senator from Ohio has brought out facts and figures which heretofore have not been too apparent. He is attempting to make them apparent to the general public, and he deserves the thanks of all of us in the Senate.

Mr. LAUSCHE. I read in a magazine within the last 3 days a statement made by Lenin. He said, according to my recollection, that France would spend itself into exhaustion through luxury, Germany through militarization, and the United States through general spending beyond the ability of the taxpayers to carry the burden.

In my judgment, Lenin knew what he was talking about. That is, it is simple to promote spending programs. It is rather painful to promote laws imposing taxes that will finance the spending programs. Since it is painful to finance our spending programs and indulge in deficits, we spare ourselves the political animosities that come from imposing taxes, and impose the taxes upon the children that will be born in the 1970's, the 1980's, and the 1990's to pay the debts that we are incurring through imprudent, unreasonable, and unrealistic spending.

I may say to the Senator from Virginia [Mr. BYRD] that thus far I have not discussed what the Senate committee has done compared with what the House has recommended. The 1967 fiscal year authorizations were concurred in both by the House and the Senate. That year is past. As I have pointed out several times, the authorization was $2.357 billion.

I skip 1968 and go to the year of 1969. The House authorized $4.141 billion compared with $2.357 billion that was authorized in 1967. The House authorization for 1969 is $1.8 billion more than the authorization for 1967.

But the Senate committee was not content with the increase in the amount of $1.8 billion. It had to go a step further. It authorized $4.505 billion for the year 1969, practically 100 percent more than the authorization for 1967, and, in dollars, $400 million more than provided by the House.

It is the same pattern. The President recommends x. The House gives x plus y. The Senate comes along and gives x plus y plus z. The taxpayer is the one who bleeds. The taxpayer is the one who weeps. The taxpayer is the one who writes and says, "Do not pass the surtax of 10 percent."

For 10 or 11 years I have been making the argument on the floor of the Senate that one cannot keep spending more each year than he takes in without finally going to the poorhouse. But the Senate and the House have continued to operate under deficit principles, ignoring the laws of economics, believing that we can keep spending more than we take in, without ever getting into trouble.

Congress was, and continues to be, unwilling to recognize that the laws of economics operate inexorably. They may be slow in achieving their demand, but they move on, and finally they demand a payment for an abuse of those laws.

It is the law of action and reaction. We can tax in a sanguine way, but if we do, the taxpayer will quit paying.

Mr. MORSE. Mr. President, will the Senator yield at this moment?

Mr. LAUSCHE. Just let me finish this thought.

One can commit a crime, thinking that he will never be detected. But the law of atonement operates. The time will finally come when there is a revelation. Repeated commission of wrongs and crimes cannot be escaped. In the solitude of the bedroom, when silence prevails and sleep is sought, there is the reminder that during the day one committed a wrong. He can flee from the remorse, but it will follow him as the shadow follows the human being.

So it will be with our Government. We have arrogated to ourselves the infallible judgment that by the intellect of our minds we will escape the natural laws. But the natural laws are beginning to catch up with us.

I now yield to the Senator from Oregon.

Mr. MORSE. I ought to withdraw my request, because it is no longer applicable. I merely wanted to say that when the Senator from Ohio used the phrase, as I recall, "Action and reaction," he pointed at me when he said "reaction." I wanted to dissociate myself from the word.

Mr. LAUSCHE. No; I did not intend that.

In the Greek tragedies, there was what was supposed to be the plot of the Furies. A crime was committed. The Greeks tried to detect who had committed the crime. So they would concoct a play, and in the play the crime was set forth just as in Shakespeare's "Hamlet," in which young Hamlet produced a plot showing the crime of his father. In the Greek plays, the plot was shown, and in the plot was the crime. In the audience sat the man who had committed the wrong, and when the plot was discovered, he would jump up and run out.

Mr. MORSE. I am here.

Mr. LAUSCHE. No; I have the greatest respect for the Senator from Oregon.

Mr. MORSE. It is mutual.

Mr. LAUSCHE. I say that because the Senator from Oregon has the courage to stand by his convictions. He has no hesitation in stating them. Although we may disagree, I respect him for his great quality in never operating on the basis of political expediency and advantage.

Mr. MORSE. That is because the Senator from Ohio is my teacher.

Mr. LAUSCHE. I say that in deep tribute to the Senator from Oregon.

The point I have been trying to make is that the authorization for 1969 is $4,-

500,000,000 compared with $1,800,000,000 spent in 1967. I think that that authorization is too much.

Therefore, Mr. President, I send to the desk an amendment which will cut back the authorization to the amount that has been authorized for the year 1968 in the general laws, and I yield the floor.

Mr. MORSE. Mr. President, before I reply in part to the views expressed by my two good friends, the Senator from Ohio and the Senator from Virginia, I first wish to say to my friend from Ohio that I was not engaging in semantics when I said that he was my teacher; for, disagree as we do on various issues, when one talks about exercising independence of judgment and standing by his convictions, and not being afraid to disagree, I do not know of anyone in the Senate with a more perfect record in that regard than the Senator from Ohio.

Mr. LAUSCHE. I thank the Senator.

Mr. MORSE. Mr. President, I ask the Senator from Ohio and the Senator from Virginia if they have received, under the assignment I gave this morning, all the fiscal data that they asked me to obtain for them from the Department, save and except the exhibit, which I understand will be forthcoming, that sets forth the comparative table comparing 1966 with the 1967 and 1968 expenditures. That is the only table, my counsel tells me, that has not yet been supplied to the two Senators; but if there is any other information the Senators need, we shall supply it. As I followed the discussion, I judged that they had received it all except for that comparison table. Is that correct?

Mr. LAUSCHE. Mr. President, the discussions which we have had today, and the figures which have been supplied, which are in the RECORD, have completely clarified the factual situation with respect to the authorizations and appropriations, respectfully, for the years 1967, 1968, 1969, and 1970. Of course, appropriations have not yet been and cannot be made for 1969 and 1970; but the staff has provided the figures, as I think I have related; and the RECORD will come in conflict with what was said yesterday, but today's RECORD will set forth correctly what has been done.

Mr. MORSE. I am glad if the counsel was of help.

I wish to make these comments about some of the observations of my friend from Ohio and my friend from Virginia, for I do not share their great concern about the requests of the committee for these increased authorizations.

It was interesting that in their discussion, they were not questioning the value of the programs covered by the bill which the committee has brought to the floor of the Senate—with the unanimous vote of those members voting. Only one member of the committee was not present to vote.

The volumes in front of me are the best exhibit that I can give to the Senate to prove the thoroughness with which we considered the substantive issues. I am perfectly willing to stack this stack of reports alongside the reports that may be issued by any other legislative committee for a comparison on the question of whether the committee worked with thoroughness, made a full record, and provided hearings that present to the Senate the data to support the recommendations of the committee.

Read the record. It will not suffer by comparison. I wish to talk for just a few moments, Mr. President, about the quality of the program.

In all the discussions of my good friends, the Senator from Ohio and the Senator from Virginia, about the authorization amounts and the appropriation amounts that have already been authorized and appropriated, and the proposal for enlarged authorization amounts, I point out most respectfully that their arguments seemed to overlook the fact that we have educational needs in this country that will have to be supported either by enlarged local taxation or increases in Federal funds to relieve an already overburdened local education tax program.

My two friends, as I say, seem to be talking as though this Federal program were the total educational program of the country.

I call attention to the fact that if we do not authorize more Federal money and appropriate more Federal money, then it will have to be done at the local level, or we shall fail to meet the obligations that we, as a population, owe to the youth of this country.

That is what confronts my committee. When we start slashing the Federal program, we must get ready to meet on the local level what will have to be done to supply local tax funds to meet the needs, or else stand on the floor of the Senate and argue that we should walk out on the educational needs of the young people of this country.

I do not intend to do that; and I say most respectfully to my fellow Senators, the people will not let us do it, either. For, while it takes them a little time to catch up, once the parents of this country come to find out and to decide that neither at the local nor the Federal level are the funds being supplied to give their children the education that this era of civilization calls for, with the automated economy into which those young people will be thrust, they are going to hold the politicians to an accounting; and they should.

When my committee brings in this authorization program calling for these increases in authorization, we tell the Senate what we are doing. We are decreasing the need for additional authorizations at the local level, and particularly at the level of the school districts that are so poor that they cannot raise the taxes because they do not have the tax base with which to provide their children with the education to which they are entitled.

I bring the Senate back again to the major premise upon which I offer all education legislation in the Senate. I have for years and years. Disagree with me on that, and then of course we can follow a parsimonious program in regard to supplying funds with which to provide the children of this country in all school districts—poor, moderate, and rich—with the education to which they are entitled as a matter of right.

The Senate will note that I used the word "right," for that is the basic word in my major premise. And here it is. In my judgment each boy and girl, every one of them, no matter where he or she is born and irrespective of the color of that child's skin, is entitled as a matter of right to full opportunity to develop to the maximum extent possible the intellectual potential of that boy or girl. That costs money, and lots of it. That is going to cost more money than we are proposing to authorize.

I say quite frankly to the Senate that the authorization bill we are proposing this year is not going to be the maximum authorization bill that will be proposed in the next 10 years, for each year it will be higher if we are going to carry out that obligation.

Let me point out the cost of not carrying it out. Let me warn the Senate now that if we retreat from that obligation, if we walk out on that duty, then with relation to the money that we save at the expense of that obligation, the money that we save at the expense of denying to thousands and thousands of boys and girls in the poor school districts of this country an opportunity to develop to the maximum extent possible their intellectual potential—and I am sure I am engaging in an understatement—there will be $6 of loss to the economy of this country for every dollar that we save by cutting the authorizations and the appropriations.

I am sure it will be much more than that. As I sometimes have been heard to say, "When you talk to me about education, you have to talk to me at the point of a lead pencil." I am talking about the value of carrying out that educational right to the economic wealth of the Republic.

There are so many facets of that problem to be developed that it is fortunate that I have the problem here of taking a little time so that absentees can come back and make the legislative record.

I turn to page 51 of the committee report.

I read from that page of the report:

> Dr. James Conant in 1961 in his book, entitled "Slums and Suburbs," warned that social dynamite was accumulating in our large cities. Of course, the Nation is making some progress. In January of 1967 it was estimated that 97 percent of the 5- to 17-year-olds in America were in school. This as compared to 80 percent of the same age group in 1900. Also in January of 1967 it was conjectured that of the 3.8 million youngsters in this country then enrolled in ninth grade, some 2.9 million, or 77 percent, would graduate from high school. This represents a significant increase over similar data collected for the 2.7 million ninth graders of 1956, of whom only 1.9 million, or 69 percent, ultimately graduated.
>
> But reversed, the figures do not appear so reassuring. We are still faced, according to these 1967 predictions, with a possible 23 percent dropout rate in 1970.
>
> It has been estimated that approximately 1 million students drop out of school each year. The seriousness of the problem is magnified by the technological changes in our society which demand skilled workers. Currently in the United States, for every 10 unskilled workers there are seven skilled job vacancies. And by 1970, it is estimated, no more than 5 percent of our jobs will be unskilled. Yet today there are more than 1 million young men and women under 21 who have left school and are unemployed. And it is estimated that the decade of the

sixties, by its conclusion, will have produced some seven and a half million such school dropouts.

That deals with the question of what it costs the taxpayers of this country to not fulfill the obligations I have talked about.

Let me give other statistics in round numbers, and counsel will supply the figures for the RECORD.

What are the average lifetime earnings of a college graduate? They are in the neighborhood of $452,000.

What are the average lifetime earnings of a high school graduate? They are in the neighborhood of $272,000.

What are the average lifetime earnings of a grade school graduate? They are in the neighborhood of $200,000.

What are the average lifetime earnings of dropouts from grammar school? If they have any earnings at all, if the public does not support them in prison or in mental institutions or in other various forms of public upkeep, they will earn from $150,000.

Do not talk to me about a penny-wise and pound-foolish policy, which I respectfully submit is the policy advanced in these proposals to cut the investment of the taxpayers of this country in the potential brainpower of the youth of our country.

It is our great reservoir of wealth, this brainpower of the youth of the country. It is that brainpower, to the degree that we develop it to its maximum extent, that determines our annual economic productivity.

Do not forget also, and this is pregnant in the remarks of Dr. Conant, that when we start talking about the dropout program and about the relationship between skilled and unskilled jobs, we are dealing with the great oncoming—and we are in midst of it—and new economic revolution in this country, called the revolution of automation where unskilled workers will be unemployable for the most part.

We are entering now into an automated revolution in which back muscles will not be hired. Brainpower will be hired.

If we do not meet the obligation about which I am speaking, we will drown in pools of unemployability, across this land, hundreds of thousands of our young people, so far as their economic futures are concerned.

Do not talk to me about parsimony in connection with an investment in the economic productive power of developed brain power in this country, for it pays back into the local, the State, and the Federal Treasury over and over again the cost of the investment in the education of the youth.

This is so important that I am one Senator who believes that every young man and woman in this country should be assured of an opportunity to go to college with all tuition paid; because that education will pay back the cost of that education over and over again, by the increased tax dollars that educated brains will be able to earn and pay back into the Treasury.

We cannot afford to have a cutting program. I am not talking about a sound economic program, but a program cutting education just for the purpose of cutting, in the interest of so-called balancing the budget. I will not vote to balance the budget at the expense of providing educational opportunities to the young of this country. I cannot imagine a more unwise fiscal policy for the Senate to follow.

Let me give you another vital statistic that comes out of the hearings of my committee; 1985 is not very far away, but as I have said before, if we are going to answer, by 1985, the knocks of the qualified students on the college doors of America, do you know what we would have to do? We would have to double the size of every university and college, public and private, in the entire land, and build a thousand new colleges with an average student population of 2,000 per college. Are you going to lock the college doors against them? Are you going to say, in the name of an argument for fiscal parsimony in regard to education appropriations and authorizations, that you are going to lock the doors of colleges to hundreds of thousands of young men and women who can do satisfactory work in college if you will give them the opportunity? What are we thinking about? What are we thinking about from the standpoint of a sound investment?

Therefore, from the standpoint of educational philosophy, from the standpoint of political obligations, I will not go along with the suggestion of my good friends, the Senator from Ohio and the Senator from Virginia, to cut the proposal of this bill that has come to the floor of the Senate, seeking to carry out the obligation that I mentioned earlier in my remarks.

No member of the Senate can now go on a single campus in this country or only a few at most, that already is not the beneficiary, from the standpoint of tangible results, of the education bills we have passed since 1961 and of the small number of bills we had passed prior to that time. Since 1961, we have passed more Federal aid to education legislation, quantitatively and qualitatively, than had been passed in the preceding history of the Nation. That is why President Johnson refers to it as a legislative miracle.

Mr. President, I will not follow a course of fiscal parsimony on the floor of the Senate and deny to the young of this country the educational opportunities to which in my judgment they are entitled as a matter of right.

Before I turn to the next point, I wish to dwell on the point that there will be a public demand to meet the needs; and you will either maintain the amount of Federal aid that we are recommending or you will create great fiscal problems at the local tax level. Do you think the parents of this country are going to stand by, if we follow a parsimonious course of action in the Senate, and see their children denied the educational benefits to which they are entitled, and do nothing at the local level?

Every Senator knows that real property taxes for educational purposes have already reached the saturation point in almost all school districts. One of the great benefits of the Federal aid to education legislation has been to alleviate the necessity of higher tax increases at the local level so far as educational costs are concerned.

Mr. President, I wish to stress something which has not been mentioned by the Senator from Ohio or the Senator from Virginia. They speak as though this is just a single program for providing education to the young people of the country. It is a Federal supplementary program, as it should be. That is the entire basis for it. Either you do it on the Federal level or you will have to increase taxes to supply this money on the local level or deny education and training to the young people of the country. As I have said, for every dollar you save, it will cost the taxpayers, in losses, at least $6, and probably many times $6. That fact is not recognized, I say most respectfully, in the discussion of the Federal costs.

Mr. President, there is another aspect to the matter, and this is the last topic I shall discuss at this time with respect to this subject: Why the cut in education? Let those in the Senate who voted over $5 billion for NASA answer my question. Let those in the Senate who are willing to go along with a $75 billion defense program, the highest by billions and billions in the history of the country—higher by many billions than at the height of World War II—tell me why I should vote for a proposal for drastic cuts in an education budget. You can take the proposed $7.5 billion cut of the administration out of the $75 billion military budget and never know you have affected it. Do not make the argument of Vietnam to me, because out of the $75 billion, only $22 billion is earmarked for Vietnam. This administration gets most of its money for Vietnam, not out of the general defense appropriation, but out of supplemental appropriations. That is why the American people must be educated constantly about the legislative technique of supplemental appropriations and budget requests.

Mr. President, you have a defense budget request and then a whole series of supplemental budget requests. I have reason to believe that by the end of February, if you add the supplemental budgets that will be passed by then to the defense budget it will not be $75 billion but $83 billion.

Mr. President, there are so many places to make any savings you want to make rather than gutting the domestic programs, because the domestic program is a $20 billion budget which includes education, health, roads, public works, medical programs, and the myriad of programs essential to keeping a strong domestic economy and serving the civilian needs of the American people in an administration which is trying to alibi and rationalize a $75 billion defense budget.

(At this point, Mr. CHURCH assumed the chair.)

Mr. MORSE. Mr. President, if we can get the American taxpayers to realize what is involved in the mathematics of this administration budgetwise, there is no doubt what their verdict would be. The verdict would be to cut it. There is the matter of $2.5 billion for manpower commitments in Europe. The only member of NATO that ever came anywhere

near keeping its manpower commitments is the United States. The majority leader introduced a resolution, which I cosponsored along with others, to cut those divisions from six to two, and the flag wavers seek to give the impression that those who support it are not patriotic. Mr. President, the millions we are pouring into NATO are at least 85 percent unjustified and wasted.

Tell me why I should vote to spend American taxpayers' money for military assistance programs in Africa, Latin America, or the subcontinent in any such amount and degree to which this administration is pouring money down a military rathole by way of military aid. Let us take the $7.5 billion of foreign assistance, which is a real foreign aid program. The so-called semantically named foreign aid program of the administration of $3.2 billion is not even one-half of the foreign assistance program of this administration.

I say to the Senator from Ohio, and to the Senator from Idaho [Mr. CHURCH], who is presently the Presiding Officer of the Senate, to build a lot of schools, engage in public works, to seek to build a dam in Idaho or Oregon, or other public works, and he has to establish and I have to establish the cost-benefit ratio. We do not have that in the foreign aid program. I have fought for that for years. I will not support this kind of foreign aid because it plays the American taxpayers for suckers, and that is what they are and will continue to be as long as they do not insist upon a revision of a program that wastes their money. Many of them do not know about it. Some of us are doing the best we can to educate them.

I say that there are so many places to save billions of dollars of taxpayers' money now being wasted, and wasted, I repeat, in much of the boondoggling of this administration in regard to foreign expenditures that I do not intend to sit in the Senate and vote to cheat this generation or future generations of American boys and girls out of the precious right that I lay down as a major requirement of any educational philosophy. That is: we better see to it that every boy and girl in this country is able to enjoy the right to have developed to the maximum extent his and her intellectual potentiality to the greatest degree possible.

That is involved in this bill. I plead for the poor school districts because they cannot raise more tax money to provide the funds to carry out that obligation. Whether one lives in Idaho, Oregon, Michigan, or Minnesota, or any other place, we have a great stake in the citizenship and training of those boys and girls in the poor school districts because in this age of mobility they may grow up to be our nextdoor neighbors. It is important that they be skilled and educated neighbors.

Mr. President, after my colloquy with the distinguished senior Senator from Mississippi [Mr. STENNIS] yesterday, I indicated that I would place in the RECORD today an excerpt from the Department of Health, Education, and Welfare regulation implementing title VI. The section to which I allude is paragraph 80.9(a) which deals with hearings procedures:

§ 80.9 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 80.8(c), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either (1) fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the responsible Department official that the matter be scheduled for hearing or (2) advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act and § 80.8(c) of this part and consent to the making of a decision on the basis of such information as is available.

I also ask unanimous consent that at this point in the record there may appear excerpts from the "Procedures for Review of Elementary and Secondary School Desegregation Plans—Spring and Summer 1967."

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

PROCEDURES FOR REVIEW OF ELEMENTARY AND SECONDARY SCHOOL DESEGREGATION PLANS—SPRING AND SUMMER 1967

* * * * *

While in the field, staff should not prepare written desegregation plans or other written materials for local officials or otherwise make binding commitments for HEW. Such material, if requested, should be sent by letter after review by senior HEW staff. This requirement, however, should not prevent staff from freely suggesting and discussing alternative desegregation plans if local school officials so request, or from freely expressing opinions on the effectiveness or adequacy of any proposals local officials may make concerning the desegregation of their schools. If school officials wish to record the meeting, ask them to furnish HEW with a copy of the tape or the typed transcript. If the school district requests, HEW will pay the reasonable cost of the transcript or the tape. If the district refuses to furnish a copy of tape or transcript, note the refusal and continue the meeting.

Immediately upon their return to Washington, the staff should prepare a report for the file giving their findings, summarizing their interviews and giving a chronology of their activities in the district. (Attachment E) Staff should discuss their recommendations with their immediate supervisor and prepare a letter to the district confirming the HEW position. If specific suggestions were requested, include suggestions in the letter, making it clear that such suggestions are being offered at the request of the district. (Attachment F–1) If the district asked for no suggestions, or showed no interest in the suggestions made at the field meeting, do not make any suggestions in the letter, but advise the district that HEW is ready to give all possible assistance. (Attachment F–2) If the district is not in compliance, restate the request to hear from them within 15 days regarding their plans.

* * * * *

ATTACHMENT F–1

POST VISIT LETTER FOR SCHOOL DISTRICT REQUESTING SUGGESTIONS

DEAR ———: Section 80.7 of the Departmental Regulation implementing Title VI of the Civil Rights Act of 1964 provides for a periodic review of the practices of recipients of Federal assistance to determine whether they are complying with the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964. This Office conducted such a review of the operation of your district's desegregation plan from May 24 to May 27. This letter confirms the staff's advice to you that your desegregation plan, as implemented, does not appear to be adequate to accomplish the purposes of Title VI.

The staff found that your district has no regular classroom teachers assigned to desegregated situations on a full-time basis, and that staff vacancies are still being filled on a racial basis. In addition, school officials have not made sufficient efforts to make the free choice procedures an effective means of desegregating students, so that the dual school system remains virtually unchanged in your district. Finally, the educational programs at the Negro schools are demonstrably inferior to those at the white schools, partly because their enrollments are not large enough to support programs comparable to those at the white school.

Officials of school systems which have not yet eliminated their dual school structure have the responsibility for adopting and carrying out a desegregation plan which will change their school district into a single nonracial system as expeditiously as possible. Nevertheless, you have requested the staff's suggestions on the plan your district should adopt to achieve compliance. This will confirm the advice the staff gave you at their meeting with you in May.

You stated that your district has available now sufficient funds for the construction by early 1969 of approximately 35 classrooms and related facilities. On completion of such construction it would be possible to close both Negro schools, and two old white schools. In the meantime, your district's predominantly white schools will have sufficient space next September to accommodate all Negro students who will enter the first and ninth grades, and, in addition, all students who are now attending the smaller Negro school. With regard to faculty desegregation new positions will open at the predominantly white schools for the teachers displaced by the new student assignments and two vacancies are expected in the fourth and seventh grades at the remaining Negro school. By filling these positions on a desegregated basis, your district will be able to make substantial progress in staff desegregation. Needless to say, if there should be a reduction in the total professional staff in the school system, the qualifications of all staff members in the system must be evaluated in selecting the staff members to be released. Racial considerations may not be a part of the evaluation.

If your district adopts a plan which follows the above suggestions, your district will be deemed to be making adequate progress for the 1967–68 school year. I recognize that you may need additional time for planning before your school board can fully commit itself and that the final plan you adopt may vary from the suggestions above. An alternative plan, if effective, will be fully acceptable. Please advise me in 15 days what your board's intentions are, and within 30 days what its student and teacher assignments, by school

and race, for the 1967–68 will be. Finally, within 60 days, please submit your district's full plan for the complete elimination of its dual structure.

If your school system does not adopt and implement a plan adequate to accomplish the purposes of Title VI within a reasonable period, it would be necessary to start noncompliance proceedings seeking the termination of assistance for your school system. If such proceedings are started, commitments of Federal assistance for new activities for your school system will be deferred and other Government agencies will be notified so that they may take such action as they may deem appropriate. Prior to entering a final order for the termination of Federal financial assistance, your school system would be given an opportunity for an administrative hearing before a Federal examiner on the question of its compliance.

Needless to say, my staff stands ready to give you all possible assistance as you carry out the necessary reorganization of your school system.

Sincerely yours,

LLOYD HENDERSON,
Acting Chief, Education Branch, Office for Civil Rights.

Mr. MUSKIE. Mr. President, in 1965, when we first considered and approved Public Law 89–10, I stated that I felt it to be our principal objective to enact a meaningful Federal program of assistance to the States for elementary and secondary education. I felt at that time, and so stated, that the bill was not a perfect bill, but I felt that legislation for the purpose of Federal assistance to our elementary and secondary schools was long overdue.

We now have an opportunity to observe and examine Public Law 89–10 in action and we are now in a position to make improvements on our original bill.

I extend my congratulations to the Committee on Labor and Public Welfare and to those who have worked out the amendments of 1967 to the Elementary and Secondary Education Act.

I am particularly grateful that the committee has written into the bill a repealer of the provision in Public Law 89–750 which requires the use by the States of mandatory group rate provisions under Public Law 874. This repealer provision is extremely important to several Maine communities receiving funds under Public Law 874. Our federally impacted small towns would not be able to maintain their present school systems if required to enter into a mandatory grouping formula.

Limestone, Maine, the home of Loring Air Force Base, provides a striking example of the effect mandatory grouping would have on a community. The loss to Limestone under mandatory grouping would be $147.76 per student. Under the grouping plan, the town would be eligible for a total amount of $394,057.40. Under the comparable schools plan, using last year's entitlement figure, Limestone would be eligible for a total amount of $675,614.08. The loss to the community would be $253,401.01.

I also wish to express my appreciation to the committee for the new title in the Elementary and Secondary Education Act which provides for bilingual education programs. Early this year I submitted to the Special Subcommittee on Bilingual Education a proposal to include French-speaking children in the bill which the special subcommittee was considering. In the St. John Valley, in northern Aroostook County, Maine, 95 to 98 percent of the pupils are of French descent. Their home language is French; and they learn English only when they enter school. There is a high degree of linguistic solidarity in the community. Their culture is oriented toward the culture of Quebec Province and the French-speaking section of the Province of New Brunswick. Maine has other large concentrations of French-American families and students located in the industrial communities in southern and central Maine. The Superintendent of Schools at Van Buren, in northern Aroostook County, reports to me that those pupils who speak French exclusively at home score 3 years below national norms. Other surveys have shown that the average achievement scores are far below the national average. It is clear that equality of opportunity is severely limited for our French-speaking children in Maine, and I am hopeful that by giving them special language instruction in school, we will have given these children a more equal chance.

Mr. RANDOLPH. Mr. President, the Elementary and Secondary Education Act, which we are currently considering, is one of the most vital legislative programs on which this Congress should act.

This measure is a continuation of our commitment to provide increased educational opportunities for the millions of school-age children in our country. It is a realization that education is truly the key to the future development of our society and it constitutes an awareness that our young people must be afforded the chance to develop their potential and capabilities. I believe that we are now recognizing that education cannot be limited to those areas or those families which can afford the comprehensive and progressive school system. We must insure that the schools and the teachers are functioning through every area—rich and poor—and that we are implementing this philosophy through the pending amendments to the Elementary and Secondary Education Act.

Ours must be a partnership of the Federal, State, and local agencies to educate our youth. This is a partnership which is essential to the continued progress of America. We have made a significant beginning, but it may be that the legislation this year will be a further vital turning point in the development of educational programs. The passage of the original Elementary and Secondary Education Act was a monumental effort and we are again moving, with this year's measure, to a time when new beneficial results will be genuinely realized.

Mr. President, the Subcommittee on Education has worked earnestly and diligently on this measure. We are fortunate to have the able guidance of the Senator from Oregon [Mr. MORSE]. The members of our subcommittee the Congress, and our Nation are indebted to our distinguished chairman. Truly, in this country there is no better friend and effective advocate of education than the Senator from Oregon. It is a privilege to be a member of the subcommittee and to actively work with him. His patience in trying circumstances; his modesty in achievement; his cooperation and understanding in individual cases; his knowledge of complex education legislation; but above all his fairness in judgment, are unparalleled.

Mr. President, there are many constructive provisions in the pending legislation. I do not wish to repeat, even in another way, what the Senator from Oregon [Mr. MORSE] has detailed. I shall comment on a limited number of aspects.

I believe our committee has vigorously probed into one of the most perplexing and certainly intricate problems with regard to the implementation of the Elementary and Secondary Education Act. This is the difficulty of timely coordination of program authorization, funding, and State and local implementation.

As Senators know, the school year normally begins in September of a given year, but the planning phase and recruitment of teachers and specialists for program implementation is usually commenced before the close of the prior school year. Regrettably, the appropriation and authorization process of the Elementary and Secondary Education Act has not been able to coincide with the programs and program developments of the local educational agency. Frankly, this has probably been one of the most frustrating areas for local sponsors in implementing the Elementary and Secondary Education Act.

School superintendents in West Virginia have written to me voicing their concern over the fact that the authorization, funding, and program operation have not been better coordinated with the local time schedule. I believe our bill provides a constructive basis and a start for insuring coordination and proper planning of the educational efforts at all levels. I am confident that the proposals set forth in the pending legislation will be acceptable to our local school superintendents and officials. In part, these provisions covering duration and leadtime, planning and evaluation, extend the Elementary and Secondary Education Act through fiscal year 1971; insure that funds for grants to States will be available in each fiscal year; establish a program for planning and evaluation; and authorize appropriations to be advanced 1 fiscal year, thereby giving information to the State and local officials on the amount of money which will be available for the following fiscal year. The provisions are reasonable and are indeed a positive step in the effort to assist the local school districts in the development of long-range plans.

Mr. President, on August 4, I introduced a rural education amendment which would provide for technical assistance and counseling services to rural schools in determining benefits available to the schools under Federal programs and in preparing applications for such benefits. This allows the Commissioner of Education to provide assistance in the form of grants to the local district or through personnel from the Office of Education.

The inability of rural schools to take advantage of educational and other appropriate Federal programs is a matter of concern to me. I know it is to other Members also. A number of State education agency heads have discussed this problem area with me. Additionally, the Appalachian Educational Advisory Committee during hearings presented a forceful case in support of the need for technical assistance and counseling services for rural areas. This rural education amendment, although a limited program, will be helpful to our schools. It is not included in the House bill, but I am confident that House conferees will accept this additional provision.

This amendment for technical assistance and counseling for rural areas has been added to the "dissemination of information" provision which was sponsored by the distinguished Senator from Texas [Mr. YARBOROUGH] and enacted last year. The vigorous Senator from Texas was active and helpful in securing committee approval of my amendment. I am privileged to cooperate with the Senator from Texas [Mr. YARBOROUGH], who has been a leading advocate of education legislation.

During the past few years, there undoubtedly has developed a total commitment of the Congress and the Federal Government to expand the resources dedicated to public education. We have moved forward rapidly on a broad front. But the danger in any large-scale attack is the possibility of neglecting or leaving behind, so to speak, those who are in a minority grouping—those who do not speak in large numbers in this process. It is particularly gratifying to me to stress the importance of the committee action in approving the authorization for regional resource centers for the handicapped and centers for deaf-blind children. The education of the disadvantaged must not be relegated to a lower step in our national priorities. We must be watchful that, even though progress is evident in the more encompassing phase of education, the minority disadvantaged is provided the means to secure training and services.

The regional resource center concept offers a method of meaningful testing and evaluation services, the development of special educational programs, and assistance and dissemination of information so that other agencies in a region may benefit.

To promote aid to deaf-blind children, the Elementary and Secondary Education Act authorizes grants and contracts for the establishment and operation of services and centers for deaf-blind children. Again, such centers can serve as models for the development of comprehensive evaluation, diagnostic and educational service.

The committee report states:

> This amendment would provide a national program to meet a national need for a group of multiple-handicapped children who have been, for the most part, neglected in terms of education and training opportunities which would help assure their full potential for communication, adjustment, participation, and self-fulfillment in society.

I repeat "for a group of multiple-handicapped children who have been, for the most part, neglected in terms of educational and training opportunities."

With regard to this provision, the capable superintendent of the West Virginia Schools for the Deaf and Blind at Romney, Eldon E. Shipman, has emphasized the need for the establishment of additional programs to provide for the treatment of the increasing number of deaf-blind children. I have visited in recent months the schools for the deaf and blind and have been impressed with work now being done at Romney. More can be accomplished. We propose to do so.

ORDER OF BUSINESS

Mr. McCLELLAN. Mr. President, I have conferred with the majority leader and the minority whip—the minority leader is not presently available—about the matter I wish to take up. I have their consent that the matter may be taken up at this time. Therefore, I ask unanimous consent that the pending business be set aside temporarily for the consideration of a resolution I wish to present.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESOLUTION PERMITTING CERTAIN STAFF EMPLOYEES TO APPEAR AND TESTIFY IN CONNECTION WITH CIVIL ACTION NO. 1146

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of a resolution which I send to the desk.

The PRESIDING OFFICER. The resolution will be stated.

The LEGISLATIVE CLERK. A resolution permitting certain employees of the Permanent Subcommittee on Investigations to testify in civil action No. 1146, in the U.S. District Court for the Eastern District of Kentucky, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCLELLAN. Mr. President, this resolution simply authorizes a member of the committee staff to testify in a proceeding that is pending today and being considered today in the U.S. District Court for the Eastern District of Kentucky. Without the resolution authorizing this procedure, under Senate rule XXX, the witnesses, who are members of the committee staff, would not be able to appear and testify. Their testimony is important to the issue involved and I ask that the resolution be adopted.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 192) was agreed to as follows:

S. RES. 192

Resolved, That the Chairman of the Senate Permanent Subcommittee on Investigations of the Committee on Government Operations may designate and authorize any staff employees of the said Subcommittee to appear and testify at proceedings in connection with the aforementioned civil action, but that such appearance and testimony of any such staff employees shall be limited to matters which have been testified to in open hearings of said Subcommittee in furtherance of the authority and direction given to the Subcommittee under Senate Resolution 53 of the 90th Congress, 1st Session, or Senate Resolution 150 of the 90th Congress, 1st Session, or such matters as are a matter of public record in connection with the Senate Resolutions aforementioned, or such matters which are germane to the subpoenas issued by the Chairman of said Subcommittee to Alan McSurely, Margaret McSurely, Thomas B. Ratliff and/or Archie Craft.

The preamble was agreed to.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Jones, one of his secretaries, and he announced that on December 4, 1967, the President had approved and signed the following acts:

S. 287 An act for the relief of Wen Shi Yu;

S. 764. An act to amend section 6 of the District of Columbia Traffic Act, 1925, as amended, and to amend section 6 of the act approved July 2, 1940, as amended, to eliminate requirements that applications for motor vehicle title certificates and certain lien information related thereto be submitted under oath; and

S. 770. An act to amend an act to provide for the establishment of a public crematorium in the District of Columbia.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS ACT OF 1967

The Senate resumed the consideration of the bill (H.R. 7819) to strengthen and improve programs of assistance for elementary and secondary education by extending authority for allocation of funds to be used for education of Indian children and children in overseas dependents schools of the Department of Defense, by extending and amending the National Teacher Corps program, by providing assistance for comprehensive educational planning, and by improving programs of education for the handicapped; to improve authority for assistance in schools in federally impacted areas and areas suffering a major disaster; and for other purposes.

Mr. MORSE. Mr. President, the manager of the bill is ready to vote on the Griffin amendment. I suggest the absence of a quorum, which I hope will result in whatever discussion of the matter Senators may wish to engage in. I have made my case in support of the measure, and I am ready to vote.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[No. 373 Leg.]

Aiken	Gruening	Monroney
Anderson	Hansen	Montoya
Baker	Harris	Morse
Bartlett	Hart	Mundt
Bayh	Hartke	Murphy
Bennett	Hatfield	Muskie
Bible	Hayden	Nelson
Boggs	Hickenlooper	Pastore
Brewster	Hill	Pearson
Brooke	Holland	Pell
Burdick	Hruska	Percy
Byrd, Va.	Jackson	Proxmire
Byrd, W. Va.	Javits	Randolph
Cannon	Jordan, N.C.	Smathers
Carlson	Kennedy, Mass.	Smith
Case	Kennedy, N.Y.	Spong
Church	Kuchel	Stennis
Clark	Lausche	Symington
Cotton	Long, Mo.	Talmadge
Curtis	Long, La.	Thurmond
Dirksen	Magnuson	Tower
Dodd	Mansfield	Tydings
Dominick	McClellan	Williams, N.J.
Eastland	McGee	Williams, Del.
Ervin	McGovern	Yarborough
Fannin	McIntyre	Young, N. Dak.
Fong	Metcalf	Young, Ohio
Gore	Miller	
Griffin	Mondale	

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to the amendment of the Senate from Michigan. The yeas and nays have been ordered——

Mr. HRUSKA. Mr. President, I rise to support the amendment as originally offered by the senior Senator from Illinois.

The amendment is not complicated. Its words are not many in number, nor are they hard to understand. The amendment states:

> No funds authorized in this or any other Act shall be used to pay any costs of the assignment or transportation of students or teachers in order to overcome racial imbalance.

There are several propositions that make a very persuasive case in favor of the adoption of the amendment. In the first place, we have a solidly entrenched and congressionally approved national policy that there shall be no assignment or transportation of students or teachers in order to overcome racial imbalance. The policy is couched in existing statutory language. It also has frequently appeared in committee reports, as I shall later point out.

The second proposition is that, in spite of this well-entrenched, deliberately and duly chosen national policy, efforts are constantly being made to achieve Federal assistance for the purposes of assignment and transportation of students and teachers in order to achieve racial balance.

Third, the Dirksen amendment is needed to make effective, present statutory policy because of these constant efforts, which I shall shortly detail.

The language of the Dirksen amendment is especially persuasive. It says that no funds, appropriated or authorized by Congress, can be used for this specific purpose.

Mr. President, it is not hard to envision why this language is conclusive. Without money you cannot get buses, you cannot get escorts, you cannot do all the things that go into the matter of transportation and busing of students or teachers for the purpose of trying to overcome racial imbalance.

I also wish to point out that the proposed amendment offered by the Senator from Michigan should not be approved because it would reverse present policy. It would mean acquiescence in, and it could even be construed as meaning affirmative approval of, the use of Federal funds for the purpose of assignment or transportation of students and pupils to overcome racial imbalance.

Mr. President, this would be a high price to pay since the national policy, I have referred to, was enacted into law only after a great deal of effort, in 1964.

That policy was enacted into law originally as a part of the Civil Rights Act. I happen to know something about that act, because much of the tedious work of obtaining agreement on the many titles which that act contained was the task of a subcommittee and a committee on which I was a member. As a member of the Senate Committee on the Judiciary, I sat in on many of the committee meetings and many of the informal meetings, wherein that bill was finally hammered out, although it did not satisfy every Member of the Senate or the House of Representatives, or every citizen in the Nation; nevertheless, the passage of a Civil Rights Act was accomplished.

Certain actions were taken, and certain other actions were not taken, in order to arrive at a bill that, when reported, would be accepted by both Houses of Congress.

One of the points in the bill that was very controversial, very sensitive, and highly important, was this business of assignment and transfer of pupils in order to overcome racial imbalance.

The Civil Rights Act of 1964, as found in 42 United States Code, section 2000c, subparagraph (b), by way of defining what desegregation is, reads thus:

> "Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance.

That is one of the sections that was hammered out on the anvil of discussion. It was the thought of many that the last sentence of that section should be deleted. It was also the thought of many of those who later debated the bill and voted upon it that it should not expressly say what desegregation did not mean.

But that has been the law for more than 3 years.

Section 2000c(6), providing for action by the Attorney General in desegregation cases, contains the following statement:

> Nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance—

Mr. President, that is a clear prohibition against authority being granted to any official or court of the United States in regard to transportation of pupils or students. The words were carefully chosen. They are not equivocal, but dearly state that nothing in the Civil Rights Act of 1964, shall empower any official or court of the United States to issue any order seeking to achieve racial balance by requiring the transportation of pupils or students from one school to another, or from one school district to another, for the purpose of achieving racial balance.

That particular language was written into the bill by an amendment in the other body. The amendment was proposed in the House Judiciary Committee and later was agreed to by the House of Representatives. It came over to this body, and eventually was adopted in the form which I have read. It is the language of title IV that was the subject of colloquy in the Senate on June 4, 1964, to which reference has heretofore been made during the course of the debate on the pending amendment.

That colloquy was between the then senior Senator from Minnesota, Mr. HUMPHREY, and the Senator from West Virginia [Mr. BYRD].

In addressing Senator HUMPHREY, Senator BYRD of West Virginia said this:

> Can the Senator from Minnesota assure the Senator from West Virginia that under title VI school children may not be bused from one end of the community to another end of the community at the taxpayers' expense to relieve so-called racial imbalance in the schools?
>
> Mr. HUMPHREY. I do.
>
> Mr. BYRD of West Virginia. Will the Senator from Minnesota cite the language in title VI which would give the Senator from West Virginia such assurance?
>
> Mr. HUMPHREY. That language is to be found in another title of the bill, in addition to the assurances to be gained from a careful reading of title VI itself.
>
> Mr. BYRD of West Virginia. In title IV?
>
> Mr. HUMPHREY. In title IV of the bill.

A little later, after other material had been discussed, there occurred this further question by the Senator from West Virginia:

> Mr. BYRD of West Virginia. But would the Senator from Minnesota also indicate whether the words "provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance" would preclude the Office of Education, under section 602 or title VI, from establishing a requirement that school boards and school districts shall take action to relieve racial imbalance wherever it may be deemed to exist?
>
> Mr. HUMPHREY. Yes. I do not believe in duplicity. I believe that if we include the language in title IV, it must apply throughout the act.

Of course title IV is the title to which I made reference a little while ago. It withheld any power of any official or of any court of the United States to issue an order seeking to achieve racial balance by the so-called busing of students from one school district to another or from one school to another.

In 1965 the Elementary and Secondary Education Act was passed. It contained in section 604 the following language:

> Nothing contained in this act shall be construed to authorize any department, agency,

officer, or employee of the United States to exercise of any direction, supervision, or control over the curriculum, program, or instruction, administration or personnel of any educational institution of the school system, or over the selection of library resources, textbooks, or other printed or published instructional matters by any educational institution or school system.

It is this section which is entitled and described as prohibiting Federal control of education. It did not, in its original form, contain the more definite language which was added a year later when amendments to it were considered.

In the changes of 1966, contained in Public Law 89–750, a number of amendments were adopted. One of them renumbered section 604 as 704 and inserted at the end of the original section 604 these words: "or to require the assignment or transportation of students or teachers in order to overcome racial imbalance."

The new section 704, leaving out the words, irrelevant to this debate reads as follows:

Nothing contained in this act shall be construed to authorize any department, agency, officer, or employee of the United States to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

The language is plain. It embodies the very thought that was expressed in 1964 by the then Senator from Minnesota, Senator HUMPHREY.

The enactment of this amendment was an expressed intent of Congress of the highest form. It was approved by both Chambers of Congress and signed into law by the President. The language is unequivocal. The busing of students or teachers to achieve racial balance is prohibited by the law of the land.

There is similar policy in other acts. I refer, for instance, to the demonstration cities program.

Mr. President, it was charged in debate in the other body that the demonstration cities program would be used to require school systems to plan busing and school rezoning, as a condition of Federal grants. That charge was made and the details in support of it were set out by a Member of Congress who felt that such was the situation. In the CONGRESSIONAL RECORD on March 7, 1967, there appeared a letter from the Secretary of Housing and Urban Development, Robert C. Weaver, which strongly denied that charge. He cited two sections of the demonstration cities and Metropolitan Development Act in support of his position. One section is found in title II, section 103, subparagraph (d). That section reads as follows:

(d) Nothing in this section shall authorize the Secretary to require (or condition the availability or amount of financial assistance authorized to be provided under this title upon) the adoption by any community of a program (1) by which pupils now resident in a school district not within the confines of the area covered by the city demonstration program shall be transferred to a school or school district including all or part of such area, or (2) by which pupils now resident in a school district within the confines of the area covered by the city demonstration program shall be transferred to a school or school district not including a part of such area.

Again, we have the same language:

Nothing in this Act shall authorize the Secretary to require such assignment, transfer, or transportation of students from one school district to another.

Then, in section 205, subparagraph (f) of title II of the Demonstration Cities and Metropolitan Development Act, there appears the following language:

(f) Nothing in this section shall authorize the Secretary to require (or condition the availability or amount of financial assistance authorized to be provided under this title upon) the adoption by any community of a program to achieve a racial balance or to eliminate racial imbalance within school districts within the metropolitanwide area.

Mr. President, that language likewise is plain. It certainly states there is no authority for these purposes. The citation of these statutes, and the reading of the excerpts therefrom, are sufficient to establish my first proposition, that there is currently in existence a congressionally approved national policy to prohibit any assignment or transportation of students or teachers in order to overcome racial imbalance required by any Federal officer, agency, or department.

Mr. President, the second proposition I advance is this: The statutes have not been sufficient to accomplish their stated objective. They have not been effective. Assault after assault has been made by the executive branch of the Federal Government to destroy, avoid, and nullify this policy which is also the law of the land. Hence, the necessity for the Dirksen amendment.

It provides that—

No funds authorized in this or any other Act shall be used to pay any costs of the assignment or transportation of students or teachers in order to overcome racial imbalance.

This language, of course, follows the statutes to which reference has already been made. It is language which can be plainly understood. It would effectively implement the policies which Congress has repeatedly declared.

What about the efforts to nullify this national policy? In the first place, there was the establishment and promulgation of school desegregation guidelines, which is a topic familar to this Chamber. They were discussed extensively, heatedly, and vigorously on many occasions. These guidelines first were issued by the Department of Health, Education, and Welfare in 1966.

They were reissued with minor changes, in a new and more determined fashion and with the original thrust still contained in them in January of this year. The object of the guidelines is to impose upon school authorities an absolute and affirmative duty to desegregate. No longer did the Constitution or the law merely forbid Government power to enforce desegregation. A new feature was adopted. Under the guidelines there was an imperative duty upon school districts to integrate. A disproportionate concentration of Negroes in certain schools could not now be ignored. According to the guidelines racial mixing of students became a high educational goal.

This situation makes necessary a Dirksen-type amendment so that funds will not be available to implement and finance programs based upon those guidelines. It is an instance of a vigorously pursued effort to disregard and nullify the conscious and deliberately adopted national policy to which I have previously referred. Statutes were cited to support the proposition. I do not think it necessary to go into detail on the guidelines, since they have been thoroughly discussed in this body on previous occasions. It has been alleged and, I think, with some merit, that the guidelines are improper and illegal because they have never received Presidential approval. The situation that resulted after the promulgation of the guidelines was considered so serious and so great in the other body that a series of hearings was held on the administration of the entire Education Act with particular reference to the guidelines.

Another example of efforts to nullify the national policy will be found in the busing pattern adopted in the District of Columbia. Hearings before the Senate Subcommittee on Appropriations for the District of Columbia developed the fact that many elementary, junior high school, and senior high school students were being transported at a total cost of approximately $400,000 a year. It was pointed out by the very able chairman of the Subcommittee on Appropriations for the District of Columbia that a capital outlay of a few hundred thousand dollars would have improved the school system in the District of Columbia, had the busing money been devoted to that purpose.

We now come to the question of the inconveniences in busing children, in other words, the length of the bus ride, the busy rush hour traffic to face to get the students to and from school, and the time of the bus ride, which often extends as much as 1 hour and sometimes even one hour and a half each way.

There are many reasonable minded persons who believe that the time and the effort of students could be more profitably spent in an activity other than going back and forth to school in a bus, with all the attendant hazards.

The question was asked of a witness, who was an official of a school district, as to where the money came from to bus children. His answer was that the money came from funds for federally impacted schools.

The Senator from West Virginia [Mr. BYRD], during the course of hearings on the fiscal 1968 District of Columbia appropriations bill asked the following question after he had ascertained that the money for busing came from the Federally impacted school funds:

Are you aware of the language in the HEW Appropriations Committee report?

Dr. CARROLL. I am aware of that. I wasn't aware that this was applying to the provision of Public Law 874 funds to schools.

Senator BYRD. I would like to put that language in the record.

(The information follows:)

"EXCERPT FROM HEW REPORT

"The committee recommends that no funds herein provided for the Office of Education shall be used for busing of public school students or for any other activities calculated

to eliminate racial imbalance in the public schools."

It is true that the language is not a provision of the law but it is a recommendation of the Health, Education, and Welfare Appropriations Subcommittee and the entire Appropriations Committee of the Senate. It further indicates the national policy on this subject.

Senators will remember that when the District of Columbia appropriation bill came before the Senate, an amendment was inserted which prohibited the use of any of the moneys from that particular bill for the purpose of busing students. That amendment is a part of the bill which was signed into law by the President. It was a result of the active and persistent efforts by Federal authorities and officials in attempting to nullify the national policy in this area.

The existence and evidence of such efforts are to be found in testimony and statements by officials of the Department of Health, Education, and Welfare. Not long ago—in fact, last May—an interview of the Honorable John W. Gardner, Secretary of Health, Education, and Welfare, was reported in the U.S. News & World Report. I should like to read portions of the interview because I think it conclusively indicates what is happening in the adoption of a policy which is calculated to disrupt, and to nullify the law concerning assignment and transportation of teachers and pupils for the purpose of overcoming racial imbalance.

At one point in the interview, the question was asked of Secretary Gardner:

Q. Is there anything in the law that allows you to attack *de facto* segregation—that is, segregation in a school just because the surrounding community is not racially mixed?

A. Not if you take *de facto* in its literal sense. You have to prove racially motivated official acts that led to imbalance. The mere fact of racial imbalance isn't enough.

Now, I happen to believe that we must combat *de facto* segregation with all the energy possible. Segregated education is not good for the children or the nation, whether *de jure* or *de facto*. But how do you eliminate segregation? Our present efforts aren't particularly effective.

It's something we all ought to be thinking about. What do we do in the North when the central city of every major metropolis is becoming exclusively Negro, surrounded by white suburbs? Under such circumstances, how can we provide better education for Negro children right now?

Wherever it is possible to halt the movement of the white population out of a neighborhood by improving that neighborhood, so that the schools will have a reasonably mixed population, it should be done. We cannot and must not have two nations. We must not allow a situation to develop in which we have two peoples living apart, not knowing each other, not trusting each other. That isn't the America we started out to build.

A little later in the interview the following appeared:

Q. Are you tackling this basic problem of *de facto* segregation?

A. Yes, but not on as large a scale as I would like. We have limited funds. With these funds we say, in effect, to communities: "If you think you have a solution, we'll help you with it."

Our attitude is that these are local decisions and we ought to be ready to try to help people who want to figure these things out. They're very tough problems.

If a community wants to try to create a situation in which it diminishes the movement toward *de facto* segregation, if the community says, "All the whites are moving out and you've got to help us do something about it," then perhaps we can help. We can help them improve their schools to try to stop the outmigration. We can help them train their teachers to deal with problems of racial conflict.

If a suburban school says, "We would like to open up 150 or 200 places to disadvantaged youngsters from the central city," well, that's a pretty forward-looking thing for a suburban school to do—and if they came to us and asked for help we might give it to them.

Q. Do you mean help on a program, or financial help?

A. Money.

Mr. President, in this we get to the essence of the Dirksen amendment—money. Secretary Gardner said, "We have limited funds." The Dirksen amendment would say, "You have no funds for transporting or assigning teachers or children from one district to another or from one school district to another for the purpose of overcoming racial imbalance."

It may be that the Secretary is entirely right in his analysis that this is a very important thing and that there must be a racial mix; but we have deliberately adopted and approved a differing national policy on this subject. It is in the form of a statute, and it is not for the Secretary of HEW or any other Secretary or official to say, "In my judgment, this is a good use of this money and I am going to put the money to that use."

It is not for him to say. Nevertheless, he is pursuing that course, and as I understand it, he is the one who authorized issuance and promulgation of the guidelines under which that has been done.

Under this sort of attack from every side, it seems to those of us who support the Dirksen amendment that some action should be adopted to make the statute effective as originally intended and strengthened as it was in 1965. We can do this, by putting, in express words, a denial of authority to effect the transfer of students or teachers for the purpose of overcoming racial imbalance. That is just about the situation in the District of Columbia. One of our colleagues observed that Judge J. Skelly Wright made his decree; now let him enforce and finance it. This body, unless it wants to abdicate its most powerful instrument, the power of the purse, has the means whereby it can enforce its enactment.

Mr. President, that makes the case for the need for the Dirksen amendment.

Insofar as the amendment of the Senator from Michigan [Mr. GRIFFIN] is concerned, I have grave misgivings about it. It is the suggestion of this Senator that it would reverse the present policy. It probably would soften the stand that has been taken by the Congress, by both Houses, and which is under the signature of the President. There is not any call for it at all. In fact, it would be highly undesirable.

The Dirksen amendment reads as follows:

No funds authorized in this or any other Act shall be used to pay any costs of the assignment or transportation of students or teachers in order to overcome racial imbalance—

And to that language would be added by the amendment proposed by the Senator from Michigan—

unless such use is in accordance with a policy formally and freely made by the affected State or by the affected local educational agency without the exercise of direction, supervision or control with respect thereto by any Department, agency or officer of the United States.

Thus, we would have one set of statutory sections saying there is no authority for any Federal office or agency or department or bureau to do anything which would result in the transportation or assignment of students if it is for the purpose of overcoming racial imbalance. And now comes an amendment which says that if a State body says, freely and formally, and without any direction, supervision, or control—if all those conditions are satisfied—then it is all right for the money to be used for that purpose.

Mr. President, I submit it cannot be done. This amendment will mean nothing unless there is a derogation of the existent statutory provisions which I have read into the RECORD. These sections will read, for example:

Nothing in this Act shall be construed to authorize any department, agency, or employee of the United States to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

Under the proposed amendment, it would no longer read that way. It would say that "except that where a community develops a plan, without control, supervision, or coercion, and does it freely and formally, and it is approved by the Secretary," then the money can be spent.

I submit that the statutory prohibitions presently existing make it illegal for the Secretary to stamp such an application with his approval, because that would be a use of his authority which would result in the payment of money for the purpose of the transportation. That is what this Dirksen amendment seeks to preclude.

For that reason, it is my considered judgment, and I urge my fellow Senators to adopt that view, that the Griffin amendment should be rejected, and the Dirksen amendment approved in the form originally proposed.

The amendment proposed by the Senator from Michigan to the Dirksen amendment would mean acquiescence in, and even approval of, the use of Federal funds and authority, under certain circumstances, for the purpose of assignment or transportation of students or teachers to overcome racial imbalance.

That certainly does not represent the thinking, the conclusion, or the policy reached by the Congress and the President of the United States, because they were the agencies, and they were the people who created the policy which now exists, the two Houses of Congress, by

passing and approving the bills, the President by signing them when they were sent to him. That policy is not contained in only one act; it is found in several sections, in several very important acts, notably the two that I have referred to.

By way of summary, Mr. President, I say that these four propositions are worthy of consideration by every Member of this body, and I hope they will be considered worthy of consideration by Members of the House of Representatives as well, in determining the final outcome of the subject under debate.

The first proposition is that there is presently a congressionally approved national policy that there be no assignment or transportation of teachers or students in order to overcome racial imbalance, and that there is no power in the hands of any department, agency, officer, or employee to require such assignment or transportation.

The second proposition is that in spite of this very flat, unequivocal, and plainly understandable national legislative policy, persistent efforts are being made to achieve Federal assistance, with authority and with funds to accomplish assignment and transportation of teachers and students, notwithstanding the statutory inhibition and prohibition thereof.

The third proposition is that the Dirksen amendment is needed to make the present statutory policy effective, to make it truly workable. Without the lubricant of U.S. currency, none of these programs can work; and it would be an exercise of one of the most effective instruments Congress possesses to see that the dictates of these representatives of the people of the United States shall in fact become a reality, instead of subjecting ourselves to additional assaults upon those statutes, made with the intent that a contrary policy be achieved.

Finally, I say with the greatest respect for the Senator from Michigan because he is one of the most valued and respected Members of this body and of Congress, and he has a splendid record for soundness and bending his efforts toward trying to secure approval of those things in which he sincerely believes—the Senator's amendment should not be approved. It would tend to reverse present policies; it would mean acquiescence in, or even approval of, the use of Federal funds for the busing and assignment of teachers and students in violation of other statutes on this subject, a result which would be highly regrettable and most undesirable.

In conclusion, Mr. President, I ask unanimous consent to have printed in the RECORD an editorial entitled "A Dubious Remedy," from the Washington Post, bearing on the question of policy, as to whether or not this type of transportation and assignment for the purpose of overcoming racial imbalance is good and sound, or whether it is indeed a dubious remedy and I suggest that is a very charitable characterization.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A DUBIOUS REMEDY

Public schools in the country are, unfortunately, more heavily segregated now than in 1954. Segregation by residential pattern is proceeding faster than desegregation by law. The U.S. Civil Rights Commission's latest report, "Racial Isolation in the Public Schools," explains the difficulty clearly enough. But it offers only a very dubious remedy.

Lower class life has traditionally been largely organized by ethnic groups in American cities. Some of the earlier ethnic groups in the slums have positively insisted upon their own schools and segregated institutions even though, in the opinion of some scholars, they have retarded their own economic and social progress by it. The past decade is the first time in the cities' experience that that idea of ethnic concentrations has been subjected to a sustained political challenge. There is not much in the cities' laws or past experience to guide them toward a solution.

The Civil Rights Commission begins with the familiar point that most children in segregated Negro schools do not do as well as most children, white or Negro, in preponderantly white schools. The Commission then reviews several attempts to compensate for segregation by giving Negro schools somewhat more money and attention. The Commission concludes that all of these experiments have failed. The only answer, it argues, is Federal legislation to reduce the proportion of Negroes in any school to a fixed standard, perhaps 50 percent.

To achieve this ideal, the Commission suggests school pairing, educational parks, and a variety of other familiar expedients. But these devices seem to work best in small cities. They offer little hope to New York, where the slums are great cites, in themselves, or to Washington, where more than 90 per cent of the schoolchildren are Negroes and state lines surround them on all sides. The basic concept of a racial balance is not useful in a city like Detroit where many of the white children are from Appalachia and are, as a group, more deprived than the Negroes; or in cities where many of the children, both white and Negro, speak Spanish. To pin all of our national policy to a rule of racial balance alone would be a dangerous oversimplification of the actual needs of minorities.

When exchanges can reasonably be accomplished, they ought to be encouraged. But in many schools, for the present, there is no alternative to large Negro majorities. The Commission has been far too quick to conclude that compensatory programs do not work. On present experience, it can only be said that small, inexpensive programs have little visible effect. The best hope for inner city education now is a sweeping reorganization of the schools to bring in the parents, both as advisers and as students, and to bring in the children at much earlier ages. We must begin with three-year-olds. We must run schools through the summers. We must keep them open until 11 p.m. every night for recreation, adult education and community activities. Until we do these things we cannot say that the inner city school is doomed to failure. The Commission makes the mistake of assuming that there is magic in white faces that makes them indispensable to other children's education. This whole concept is profoundly wrong. It merely offers an easy evasion to the hard truth that the big-city school systems are highly ineffective and require reform on a scale not yet attempted.

Mr. HRUSKA. For all these reasons, Mr. President, I urge that Senators consider seriously and vote that the Dirksen amendment, as originally proposed, without any amendment, be agreed to and made a part of the pending measure.

Mr. President, I yield the floor.

(The following colloquy, which occurred during the delivery of Mr. HRUSKA's address, is printed at this point in the RECORD on request of Mr. HRUSKA and by unanimous consent.)

Mr. GORE. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. GORE. Mr. President, if it is considered wise, fair, and advisable to use U.S. Government funds, and thus the power of the U.S. Government, to require a child to undergo the hardship and hazard of daily bus travel to some designated neighborhood outside of his own for some purpose, or for any purpose, would it be equally fair, wise, and advisable, and within the police power, to require the parents of such child to move to such neighborhood? What is the difference in legal principle in requiring the child to go daily beyond the school to which he would normally go in his neighborhood and requiring his parents to move?

Mr. HRUSKA. Those are not the only two alternatives which exist. There are other alternatives.

The pending bill goes only to prohibit the use of Federal funds for this purpose. And the Federal funds talked about in the school program are relatively small in percentage and amount. There is nothing which provides that the local school district cannot pay for busing if, in its wisdom, it decides to do so. The local school district could pay for busing or transportation, and nothing is contained in the pending amendment which would bar that or prevent that. The student himself could pay for the transportation.

Mr. GORE. Mr. President, will the Senator yield further?

Mr. HRUSKA. I yield.

Mr. GORE. I was seeking to draw from the able Senator, who is a very learned student of the law, what distinction there is in principle between requiring a student, perhaps against his or her will, to make daily trips across a city for some purpose other than education and other than the welfare of the child and requiring the parents of such child to move to such neighborhood or, for that matter, to prohibit the parents from moving from a given neighborhood without the permission of the Government.

Mr. HRUSKA. The policy considerations in this matter are many and varied. There are those who believe in neighborhood schools as opposed to educational parks. That could be violated or perhaps disrupted by the wholesale moving of children from a neighborhood.

I presume those are some of the policy considerations, as explained by the Senator from Ohio earlier in this debate, which were highly persuasive in this matter. However, the alternatives are not, again I say to the Senator from Tennessee, necessarily to require the parents of the child to move to a neighborhood, nor to have the child attend another city school.

All the amendment does is to say that they cannot use Federal funds for that purpose. If the local school district wants to do that or if the parents want to transport the child, that is their business.

Mr. GORE. Again talking about the use of Federal funds, Federal funds are

used for many purposes. They are used for the insurance of home mortgages in the case of the Federal Housing Administration, for loans for the rehabilitation of homes, and in many respects other than education.

I was seeking to draw from the able Senator what distinction, in his view, there is really between forcing a child to go daily outside of his neighborhood, spending time and taking the hazard of travel across the city for purposes other than education, on the one hand, and requiring the parents of that child, if they receive loans on their home or guaranteed mortgages on their homes, to move to a neighborhood which someone shall select.

Mr. LAUSCHE. There is no difference.

Mr. HRUSKA. I would not think there would be any difference in that proposition, as the Senator puts it.

Mr. GORE. It would seem to me that in either of those instances we would be going pretty far and being rather arbitrary for purposes other than education.

Mr. HRUSKA. I think that would follow so that Federal authority would be exercised perhaps in an indirect way, but nevertheless in a very effective way, in interfering with the course of conduct which an individual or an individual family would want to pursue and would pursue except for that interference by the Federal agency.

Mr. GORE. Mr. President, I thank the Senator.

Mr. HRUSKA. I thank the Senator from Tennessee for his interest.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. HRUSKA. I am happy to yield to the Senator who offered the amendment, the junior Senator from Michigan.

Mr. GRIFFIN. Mr. President, I hesitate to interrupt. I expect to develop this at more length later on my own time.

The Senator has focused on title IV of the Civil Rights Act as being a basis for the argument for the Dirksen amendment and against the amendment I offered.

I would like to read that language again, and I shall perhaps emphasize a different word. It reads:

> . . . nothing herein shall empower any official or court of the United States to issue any order seeking to achieve racial balance in any school by requiring the transportation of pupils or students from one school to another. . . .

The word "requiring" in title IV of the Civil Rights Act of 1964 is the key word, and here is the crux of the argument or the debate that is going on between those who support the Dirksen amendment and those who support my amendment.

It is well established in the Civil Rights Act that an official of the United States may not use Federal funds to require the transportation, but my amendment seeks to point out that the Dirksen amendment goes too far. The Dirksen amendment, as it is offered, does not speak in terms of requirement. It says:

> No funds authorized in this or any other Act shall be used to pay any costs of the assignment or transportation of students or teachers in order to overcome racial imbalance.

In other words, the Dirksen amendment is not a restatement of the language in title IV of the Civil Rights Act. It goes further. It prohibits the use of Federal funds in an instance where there is no requirement but it is purely a matter of local policy.

Therein is the argument, as succinctly and as concisely as I can state it.

If all the Dirksen amendment sought to do were to restate language that is already in title IV of the Civil Rights Act, what would be the point in it? It serves no purpose to have the language restated in another point in the statute books. If it is law in the Civil Rights Act today, it is still law, whether or not the Dirksen amendment is adopted. The crucial word is "requiring."

Mr. HRUSKA. The Senator from Nebraska most respectfully differs with the conclusion drawn by the Senator from Michigan.

Nothwithstanding the flatfooted and unequivocal statutory provisions, some of which I have already referred to and additional ones which I shall refer to shortly, there are constant efforts on the part of the executive branch, its officials, and agencies, to frustrate that policy in this regard.

The only way to reach it is to say, "All right, if these agencies so badly want the busing and the transportation to make racial balance possible, or to overcome racial imbalance, let them furnish the money. But none of the money voted by this Congress will be devoted to that purpose."

Therein lies one of the redeeming features of the Constitution, which says that Congress shall have the power of the purse, and it can use that power in order to enforce some of the things it decides to declare as policy. That is the real point of the Dirksen amendment.

Let us move on to the suggestion by the Senator from Michigan that the word "require" is the crucial word.

As I read the law pertaining to education or to any other Federal grant programs—one element that always can be found in the provisions of virtually every act is that the State or the local political subdivision must submit a plan and that plan must be approved by the Secretary or some designee of his; and until it is approved, it will not qualify for Federal funds. That certainly is the case in the Education Act we are considering today. In that lies the control which the amendment proposed by the Senator from Michigan cannot escape. That control is always there.

The Secretary has virtually unlimited arbitrary power to say "Yes," "No," or "Maybe" to any application for approval of a plan.

He can say, "Sorry, Mr. School District. This plan does not quite fit. Maybe you had better redraw it and submit it again and put in it the busing of school children so that we will have racial balance here, and then we will approve it."

Under those circumstances, is the plan that is proposed for approval one that is voluntarily proposed by the local district, or is a form of coercion or a form of pressure or control being exerted by someone other than the local political subdivision?

The idea of the Dirksen amendment is to get an effective working of the present national policy and not to give the label of uncontrolled, unsupervised, uncoerced plans offered by local subdivisions, when in truth and in fact such an uncontrolled result is impossible to attain under the present statute.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. GRIFFIN. It seems to me that the Senator is saying that in title IV of the Civil Rights Act is the very explicit language which provides that no official of the United States shall require the transportation of pupils or students; and then the Senator is arguing that the Office of Education is not adhering to the law and is requiring, one way or the other, the transportation or busing of students. I do not know whether this is true. The Secretary of Health, Education, and Welfare says it is not true. But whether it is true or not, let us assume that the Office of Education is violating the law, is not following the law. We come to the question of whether or not the amendment of the Senator from Illinois would make any difference by restating the law in another place in the statute books. I suppose if the language of the amendment offered by the Senator from Illinois merely restated the law in another place in the statute books, we would not have the controversy that is occurring. But the fact is that it does not.

I would point out that we are dealing here with an authorization bill. It will be another act on the statute books. It will have no more force or effect than title IV of the Civil Rights Act. And if the Office of Education is going to disregard the law in one instance, I assume it would disregard the law again, if you write it again.

Mr. HRUSKA. But they will not be able to implement their disregard of the law, because they will not have available the dollars necessary to make it work. That is the whole thrust of the Dirksen amendment. I am aware of very few activities of the Government that do not require some U.S. currency to make the machine go.

Mr. GRIFFIN. This is not an appropriation bill.

Mr. HRUSKA. No, but it is a limitation.

Mr. GRIFFIN. We are dealing with an authorization bill.

Mr. HRUSKA. That is right. And the Dirksen amendment would be binding upon any funds that are authorized, whether by appropriation or by authorization.

Mr. GRIFFIN. Does the Senator say that title IV of the Civil Rights Act is not binding and controlling on the Office of Education at the present time?

Mr. HRUSKA. No. But I ask the Senator from Michigan to listen carefully to some of the other things I will say, as patiently as he can, when I seek to develop the case for the proposition that, notwithstanding the unequivocal language of the present statute, there are presently in motion efforts to circumvent, to disregard, and to violate the statute.

Mr. GRIFFIN. I would suggest that the

remedy might be for a court action to compel, in some way, the Office of Education or the Secretary of Health, Education, and Welfare to follow and adhere to the existing law, rather than to change the existing law, which the Dirksen amendment would do.

Mr. HRUSKA. I would differ again, most cheerfully and most respectfully, with the Senator from Michigan, because the Dirksen amendment would not change the present law. It would simply supplement it by furnishing the method whereby the present law could be implemented and really enforced.

(This marks the end of the colloquy which occurred during the delivery of Mr. HRUSKA's address and was printed at this point in the RECORD by unanimous consent.)

AMENDMENT NO. 489

Mr. LAUSCHE. Mr. President, earlier I sent to the desk an amendment which, if adopted, would fix the authorization for the program we are discussing at the level of the 1968 authorization for the next 4 years, including 1968. The 1968 authorization is $3,965,000,000, in round figures. My amendment would fix the same amount for the years 1969, 1970, and 1971.

If we multiply the $3,965,000,000 by four, we arrive at the figure $15,860,000,000, which would be the authorized expenditure for this program for the 4 years beginning in 1968 and ending in 1971. I have been asked the question, "How does this figure, for the 4-year period, of $15,860,000,000, differ from what is authorized in the bill pending before us?"

In the pending bill, there is authorized for 1968 $3,965,000,000; for 1969, the Senate version authorizes $4,505,000,000; for the year 1970, it authorizes $4,783,000,000; and for the year 1971 it authorizes $5,056,000,000.

The total of the authorizations for the 4 years, including 1968, 1969, 1970, and 1971, under the bill, is $18,237,000,000. The provisions of the bill as reported, therefore, authorize the expenditure of $2,377,000,000 more than my proposal would authorize.

I felt impelled to make this explanation because there has obviously been a misunderstanding about what my amendment provides.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Michigan.

Mr. STENNIS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KENNEDY of Massachusetts in the chair). Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Bartlett, one of its reading clerks, announced that the House had passed, without amendment, the following bills of the Senate:

S. 809. An act for the relief of Dr. Youssef (Joseph) Selim Hasbani; and

S. 1410. An act for the relief of Tran Van Nguyen.

The message also announced that the House agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 10805) to extend the life of the Civil Rights Commission.

The message further announced that the House had passed a bill (H.R. 12323) to amend chapter 73 of title 10, United States Code, relating to the retired serviceman's family protection plan, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 12323) to amend chapter 73 of title 10, United States Code, relating to the retired serviceman's family protection plan, and for other purposes, was read twice by its title and referred to the Committee on Armed Services.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS ACT OF 1967

The Senate resumed the consideration of the bill (H.R. 7819) to strengthen and improve programs of assistance for elementary and secondary education by extending authority for allocation of funds to be used for education of Indian children and children in overseas dependents schools of the Department of Defense, by extending and amending the National Teacher Corps program, by providing programs of education for the handicapped; to improve authority for assistance in schools in federally impacted areas and areas suffering a major disaster; and for other purposes.

Mr. EASTLAND. Mr. President, this bill, as it came from the House of Representatives, had what was called the Fountain amendment. That amendment was taken out by the Senate committee and is not now in the bill. I shall, at the proper time, offer that amendment in the Senate, and I desire to discuss it and will discuss it briefly.

The purpose of this amendment is simply to assure that school boards and school districts will be accorded minimal rights of due process of law by the Office of Education and by the Department of Health, Education, and Welfare, when the payment of Federal funds is stopped on account of alleged discrimination in violation of title VI of the Civil Rights Act of 1964.

Of course, in receiving Federal funds for educational purposes, the school boards and school districts represent the schoolchildren and the taxpayers of the school districts. The children attending public school certainly have every right to receive the additional educational advantages which would flow from the use of Federal funds to which the school districts would be entitled. The taxpayers of the school districts, who are also taxpayers to the Federal Government, are also entitled to have the school boards or school districts receive Federal funds to which they are entitled, so that the school taxpayers, who send some of the money to Washington in the first place, would not be placed in the position of raising local taxes or seeing their schoolchildren do without additional educational advantages.

There are those who might argue that no school board or school district has the right to receive Federal funds and the agencies of the Federal Government might attach any conditions to the privilege of receiving such funds.

However, this theory has been completely repudiated by the Supreme Court of the United States and other Federal courts which have held in a long line of decisions that the Government cannot condition the granting of a privilege on an arbitrary or unreasonable basis.

No more lucid exposition of the meaning of due process of law has ever been given than the one made by Mr. Justice Frankfurter in his concurring opinion in the case of *Joint Anti-Fascist Refugee Committee* v. *McGrath* (1951, 341 U.S. 123).

In discussing the meaning of "due process of law" when the power of the Federal Government is used against an individual, Mr. Justice Frankfurter said in part:

> Petitioners are organizations which, on the face of the record, are engaged solely in charitable or insurance activities. They have been designated "communist" by the Attorney General of the United States. This designation imposes no legal sanction on these organizations other than that it serves as evidence in ridding the Government of persons reasonably suspected of disloyalty. It would be blindness, however, not to recognize that in the conditions of our time such designation drastically restricts the organizations, if it does not proscribe them. Potential members, contributors or beneficiaries of listed organizations may well be influenced by use of the designation, for instance, as ground for rejection of applications for commissions in the armed forces or for permits for meetings in the auditoriums of public housing projects. Compare Act of April 3, 1948, § 110(c), 62 Stat. 143, 22 U.S.C. (Supp. III) § 1508(c). Yet, designation has been made without notice, without disclosure of any reasons justifying it, without opportunity to meet the undisclosed evidence or suspicion on which designation may have been based, and without opportunity to establish affirmatively that the aims and acts of the organization are innocent It is claimed that thus to maim or decapitate, on the mere say-so of the Attorney General, an organization to all outward-seeming engaged in lawful objectives is devoid of fundamental fairness as to offend the Due Process Clause of the Fifth Amendment.
>
> Fairness of procedure is "due process in the primary sense." *Brinkerhoff-Faris Co.* v. *Hill*, 281 U.S. 673, 681. It is ingrained in our National traditions and is designed to maintain them. In a variety of situations the Court has enforced this requirement by checking attempts of executives, legislatures, and lower courts to disregard the deep-rooted demands of fair play enshrined in the Constitution. "(T)his court has never held, nor must we now be understood as holding, that administrative officers, when executing the provisions of a statute involving the liberty of persons, may disregard the fundamental principles that inhere in 'due process of law' as understood at the time of the adoption of the Constitution. One of these principles is that no person shall be deprived of his liberty without opportunity, at

some time, to be heard . . ." *The Japanese Immigrant Case*, 189 U.S. 86, 100–101. "(B)y 'due process' is meant one which, following the forms of law, is appropriate to the case, and just to the parties to be affected. It must be pursued in the ordinary mode prescribed by the law; it must be adapted to the end to be attained; and wherever it is necessary for the protection of the parties, it must give them an opportunity to be heard respecting the justice of the judgment sought." *Hagar* v. *Reclamation District*, 111 U.S. 701, 708. "Before its property can be taken under the ediction of an administrative officer the appellant is entitled to a fair hearing upon the fundamental facts." *Southern R. Co.* v. *Virginia*, 290 U.S. 190, 199. "Whether acting through its judiciary or through its legislature, a State may not deprive a person of all existing remedies for the enforcement of a right, which the State has no power to destroy, unless there is, or was afforded to him some real opportunity to protect it." *Brinkerhoff-Faris Co.* v. *Hill, supra*, 281 U.S. at 682.

The requirement of "due process" is not a fair-weather or timid assurance. It must be respected in periods of calm and in times of trouble; it protects aliens as well as citizens. But "due process," unlike some legal rules, is not a technical conception with a fixed content unrelated to time, place and circumstances. Expressing as it does in its ultimate analysis respect enforced by law for that feeling of just treatment which has been evolved through centuries of Anglo-American constitutional history and civilization, "due process" cannot be imprisoned within the treacherous limits of any formula. Representing a profound attitude of fairness between man and man, and more particularly between the individual and government, "due process" is compounded of history, reason, the past course of decisions, and stout confidence in the strength of the democratic faith which we profess. Due process is not a mechanical instrument. It is not a yardstick. It is a process. It is a delicate process of adjustment inescapably involving the exercise of judgment by those whom the Constitution entrusted with the unfolding of the process.

Fully aware of the enormous powers thus given to the judiciary and especially to its Supreme Court, those who founded this Nation put their trust in a judiciary truly independent—in judges not subject to the fears or allurements of a limited tenure and by the very nature of their function detached from passing and partisan influences.

It may fairly be said that, barring only occasional and temporary lapses, this Court has not sought unduly to confine those who have the responsibility of governing by giving the great concept of due process doctrinaire scope. The Court has responded to the infinite variety and perplexity of the tasks of government by recognizing that what is unfair in one situation may be fair in another. Compare, for instance, *Murray's Lessee* v. *Hoboken Land and Improvement Co.*, 18 How. 272, with *Ng Fung Ho* v. *White*, 259 U.S. 276, and see *Communications Comm'n* v. *WJR*, 337 U.S. 265, 275. Whether the *ex parte* procedure to which the petitioners were subjected duly observed "the rudiments of fair play," *Chicago, M. & St. P. R. Co.* v. *Polt*, 232 U.S. 165, 168, cannot, therefore, be tested by mere generalities or sentiments abstractly appealing. The precise nature of the interest that has been adversely affected, the manner in which this was done, the reasons for doing it, the available alternatives to the procedure that was followed, the protection implicit in the office of the functionary whose conduct is challenged, the balance of hurt complained of and good accomplished—these are some of the considerations that must enter into the judicial judgment.

Applying them to the immediate situation, we note that publicly designating an organization as within the proscribed categories of the Loyalty Order does not directly deprive anyone of liberty or property. Weight must also be given to the fact that such designation is not made by a minor official but by the highest law officer of the Government. Again, it is fair to emphasize that the individual's interest is here to be weighed against a claim of the greatest of all public interests, that of national security. In striking the balance the relevant considerations must be fairly, which means cooly, weighed with due regard to the fact that this Court is not exercising a primary judgment but is sitting in judgment upon those who also have taken the oath to observe the Constitution and who have the responsibility for carrying on government.

But the significance we attach to general principles may turn the scale when competing claims appeal for supremacy. Achievements of our civilization as precious as they were hard won were summarized by Mr. Justice Brandeis when he wrote that "in the development of our liberty insistence upon procedural regularity has been a large factor." *Burdeau* v. *McDowell*, 256 U.S. 465, 477 (dissenting). It is noteworthy that procedural safeguards constitute the major portion of our Bill of Rights. And so, no one now doubts that in the criminal law a "person's right to reasonable notice of a charge against him, and an opportunity to be heard in his defense—a right to his day in court—are basic in our system of jurisprudence." *In re Oliver*, 333 U.S. 257, 273. "The hearing, moreover, must be a real one, not a sham or a pretense." *Palko* v. *Connecticut*, 302 U.S. 319, 327. Nor is there doubt that notice and hearing are prerequisite to due process in civil proceedings, *e.g.*, *Coe* v. *Armour Fertilizer Works*, 237 U.S. 413. Only the narrowest exceptions, justified by history become part of the habits of our people or by obvious necessity, are tolerated. *Ownbey* v. *Morgan*, 256 U.S. 94, *Endicott Johnson Corp.* v. *Encyclopedia Press*, 266 U.S. 285; see *Cooke* v. *United States*, 267 U.S. 517, 536.

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The construction placed by this Court upon legislation conferring administrative powers shows consistent respect for a requirement of fair procedure before men are denied or deprived of rights. From a great mass of cases, running the full gamut of control over property and liberty, there emerges the principle that statutes should be interpreted, if explicit language does not preclude, so as to observe due process in its basic meaning. See, *e.g.*, *Anniston Mfg. Co.* v. *Davis*, 301, U.S. 337; *American Power Co.* v. *S.E.C.*, 329 U.S. 90, 107–108; *Wong Yang Sung* v. *McGrath*, 339 U.S. 33, 49. Fair hearings have been held essential for rate determinations and, generally, to deprive persons of property. An opportunity to be heard is constitutionally necessary to deport persons even though they make no claim of citizenship, and is accorded to aliens seeking entry in the absence of specific directions to the contrary. *Even in the distribution by the Government of benefits that may be withheld, the opportunity of a hearing is deemed important.* (Emphasis added.)

* * * * *

This Court is not alone in recognizing that the right to be heard before being condemned to suffer grievous loss of any kind, even though it may not involve the stigma and hardships of a criminal conviction, is a principle basic to our society. Regard for this principle has guided Congress and the Executive. Congress has often entrusted, as it may, protection of interests which it has created to administrative agencies rather than to the courts. But rarely has it authorized such agencies to act without those essential safeguards for fair judgment which in the course of centuries have come to be associated with due process. See *Switchmen's Union* v. *National Mediation Board*, 320 U.S. 297; *Tutun* v. *United States*, 270 U.S. 586, 576, 577; *Pennsylvania R. Co.* v. *Labor Board*, 261 U.S. 72. And when Congress has given an administrative agency discretion to determine its own procedure, the agency has rarely chosen to dispose of the rights of individuals without a hearing, however informal.

The heart of the matter is that democracy implies respect for the elementary rights of men, however suspect or unworthy; a democratic government must therefore practice fairness; and fairness can rarely be obtained by secret, one-sided determination of facts decisive of rights.

An opportunity to be heard may not seem vital when an issue relates only to technical questions susceptible of demonstrable proof of which evidence is not likely to be overlooked and argument on the meaning and worth of conflicting and cloudy data not apt to be helpful. But in other situations an admonition of Mr. Justice Holmes becomes relevant.

"One has to remember that when one's interest is keenly excited evidence gathers from all sides around the magnetic point. . . ." It should be particularly heeded at times of agitation and anxiety, when fear and suspicion impregnate the air we breathe. Compare Brown, The French Revolution in English History. "The plea that evidence of guilt must be secret is abhorrent to free men, because it provides a cloak for the malevolent, the misinformed, the meddlesome, and the corrupt to play the role of informer undetected and uncorrected." *United States ex rel, Knauff* v. *Shaughnessy*, 338 U.S. 537, 551 (dissenting). Appearances in the dark are apt to look different in the light of day.

Man being what he is cannot safely be trusted with complete immunity from outward responsibility in depriving others of their rights. At least such is the conviction underlying our Bill of Rights. That a conclusion satisfies one's private conscience does not attest its reliability. The validity and moral authority of a conclusion largely depend on the mode by which it was reached. Secrecy is not congenial to truth-seeking and self-righteousness gives too slender an assurance of rightness. No better instrument has been devised for arriving at truth than to give a person in jeopardy of serious loss notice of the case against him and opportunity to meet it. Nor has a better way been found for generating the feeling, so important to a popular government, that justice has been done.

The strength and significance of these considerations—considerations which go to the very ethos of the scheme of our society—give a ready answer to the problem before us. That a hearing has been thought indispensable in so many other situations, leaving the cases of denial exceptional, does not of itself prove that it must be found essential here. But it does place upon the Attorney General the burden of showing weighty reason for departing in this instance from a rule so deeply imbedded in history and in the demands of justice. Nothing in the Loyalty Order requires him to deny organizations opportunity to present their case. The Executive Order, defining his powers, directs only that designation shall be made "after appropriate investigation and determination." This surely does not preclude an administrative procedure, however, informal, which would incorporate the essentials of due process. Nothing has been presented to the Court to indicate that it will be impractical or prejudicial to a concrete public interest to disclose to organizations the nature of the case against them and to permit them to meet it if they can. Indeed, such a contention could hardly be made inasmuch as the Loyalty Order itself requires partial disclosure and hearing in proceedings against a Government employee who is a member of a proscribed organization. Whether such procedure sufficiently protects the rights of the

employee is a different story. Such as it is, it affords evidence that the wholly summary process for the organizations is inadequate. And we have controlling proof that Congress did not think that the Attorney General's procedure was indispensable for the protection of the public interest. The McCarran Act, passed under circumstances certainly not more serene than when the Loyalty Order was issued, grants organizations a full administrative hearing, subject to judicial review, before they are required to register as "Communist-action" or "Communist-front."

We are not here dealing with the grant of Government largess. We have not before us the measured action of Congress, with the pause that is properly engendered when the validity of legislation is assailed. The Attorney General is certainly not immune from the historic requirements of fairness merely because he acts, however conscientiously, in the name of security. Nor does he obtain immunity on the ground that designation is not an "adjudication" or a "regulation" in the conventional use of those terms. Due process is not confined in its scope to the particular forms in which rights have heretofore been found to have been curtailed for want of procedural fairness. Due process is perhaps the most majestic concept in our whole constitutional system. While it contains the garnered wisdom of the past in assuring fundamental justice, it is also a living principle not confined to past instances.

Let us now apply the principles of due process of law as stated by Mr. Justice Frankfurter in the McGrath case to the situation of the proper method for terminating the payment of Federal funds to school boards and school districts.

Which procedure more comports with the requirements of due process:

First. Cutting off the payment of such funds only after notice is given the recipient school district, a hearing is held at which the representatives and lawyers for the school district are given an opportunity to present evidence to rebut any allegations of discrimination, and a finding made on the record that the recipient school district has, in fact, been guilty of some act or acts of discrimination prohibited by law; or

Second. The procedure currently followed by the Office of Education and/or the Department of Health, Education, and Welfare whereby the Government agency, without notice, hearing, or opportunity to present evidence, mails a letter to some official of the school district advising him that the payment of Federal funds to the school district is to be terminated under the guise of "deferment," and that a hearing will be held in Washington, D.C., to determine whether the payment of such funds should be "terminated"?

This question should answer itself. It is obvious that the requirements of due process of law fall far short of being met under the second alternative procedure. Yet, that is the very procedure that is being currently followed.

Mr. Justice Frankfurter's opinion states that some of the factors to be considered in determining whether an administrative proceeding complies with the requirements of due process are as follows:

The precise nature of the interest that has been adversely affected, the manner in which this was done, the reasons for doing it, the available alternatives to the procedure that was followed, the protection implicit in the office of the functionary whose conduct is challenged, the balance of hurt complained of and good accomplished—these are some of the considerations that must enter into the judicial judgment.

As to the nature of the interest which has been adversely affected by the administrative act in terminating the payment of Federal funds to school districts, as I have previously noted, such adverse decision has an extremely harmful effect on the children who attend the schools of said school district, who are deprived of educational opportunities and advantages which they would have otherwise received, and also adversely affects the taxpayers of the school district.

With regard to the manner in which the termination of funds is accomplished, and the reasons for doing it, I can think of no good, valid reason for following the procedure of suspending payment of Federal funds without notice, hearing, or opportunity to present evidence. On the other hand, there are many good reasons for following the procedure as set out in the proposed amendment to the Elementary and Secondary Education Act of terminating the payment of funds only after notice, hearing, and a finding on the record that acts of discrimination have been committed. Not the least of these reasons is that it would afford the school district, and the affected pupils and taxpayers, some degree of fair treatment and due process of law.

The next factor to be considered is the available alternatives to the procedure of ex parte termination of the payment of funds by the Government agency. One of the available alternatives, which would afford some due process is set out in the amendment which I support.

As for the next factor in the determination of what constitutes due process of law as stated by Mr. Justice Frankfurter, there seems in this case to be very little "protection implicit in the office of the functionary whose conduct is challenged." We are not dealing here with matters of national security or other high matters of State, in which the challenged conduct of an administrative official might be protected. This case deals with cutting off Federal money. There is no good policy reason why the actions of an administrative official in so acting should be protected.

In 17th-century England the law of the land was: "the king can do no wrong." That theory never took root in the American soil, and it was completely overthrown by the shed blood which purchased the American Revolution. We should not today paraphrase the theory of the divine right of kings by saying: "the Office of Education, Department of Health, Education, and Welfare can do no wrong."

As for the last consideration in determining what constitutes due process, "the balance of hurt complained of and good accomplished," I have previously discussed the injury inflicted by the Federal administrative action in terminating the payment of funds to school districts without notice, hearing, or an opportunity to present evidence. There is no countervailing good to be accomplished by the present ex parte procedure of "deferring the payment of Federal moneys."

The case of *Dixon* v. *Alabama State Board of Education* (5th Cir., 1961, 294 F. 2d 150, certiorari denied, 368 U.S. 930), involved the dismissal without notice and hearing of a number of students in attendance at Alabama State College. The ousted students brought suit in Federal court to compel the college authorities to reinstate them as students. They claimed that their rights of due process of law had been denied them because of the failure of the college authorities to give them notice of the charges against them and to afford them a hearing at which they would have the opportunity to present evidence in their defense.

The defendant college authorities asserted that attendance at a college is a privilege, not a right, and that since it was a privilege the college authorities had the right and power to revoke that privilege at any time without stating any reasons therefore. The district court agreed with this contention of the defendants and dismissed the complaint. The court of appeals, however, reversed the decision of the district court and ordered the students reinstated pending a hearing on the charges which led to their dismissal.

The court of appeals dealt with the question of what constitutes due process of law clearly and unmistakably as follows:

Just last month, a closely divided Supreme Court held in a case where the governmental power was almost absolute and the private interest was slight that no hearing was required. *Cafeteria and Restaurant Workers Union* v. *McElroy et al.*, 1961, 81 S.Ct. 1743. In that case, a short-order cook working for a privately operated cafeteria on the premises of the Naval Gun Factory in the City of Washington was excluded from the Gun Factory as a security risk. So, too, the due process clause does not require that an alien never admitted to this Country be granted a hearing before being excluded. *United States ex rel. Knauff* v. *Shaughnessy*, 1950, 338 U.S. 537, 542, 543, 70 S.Ct. 309, 94 L.Ed. 317. In such case the executive power as implemented by Congress to exclude aliens is absolute and not subject to the review of any court, unless expressly authorized by Congress. On the other hand, once an alien has been admitted to lawful residence in the United States and remains physically present here it has been held that, "although Congress may prescribe conditions for his expulsion and deportation, not even Congress may expel him, without allowing him a fair opportunity to be heard." *Kwong Hai Chew* v. *Colding*, 1953, 344 U.S. 590, 597, 73 S. Ct. 472, 478 97 L.Ed. 576.

It is not enough to say, as did the district court in the present case, "The right to attend a public college or university is not in and of itself a constitutional right." 186 F. Supp. at page 950. That argument was emphatically answered by the Supreme Court in the Cafeteria and Restaurant Workers Union case, supra, (81 S.Ct. 1748) when it said that the question of whether "* * * summarily denying Rachel Brawner access to the site of her former employment violated the requirements of the Due Process Clause of the Fifth Amendment * * *" cannot be answered by easy assertion that, because she had no constitutional right to be there in the first place, she was not deprived of liberty or property by the Superintendent's action. "One may not have a constitutional right to go to Bagdad, but the Government may not prohibit one from going there unless by

means consonant with due process of law." As in that case, so here, it is necessary to consider "the nature both of the private interest which has been impaired and the governmental power which has been exercised."

The appellees urge upon us that under a provision of the Board of Education's regulations the appellants waived any right to notice and a hearing before being expelled for misconduct.

"Attendance at any college is on the basis of a mutual decision of the student's parents and of the college. Attendance at a particular college is voluntary and is different from attendance at a public school where the pupil may be required to attend a particular school which is located in the neighborhood or district in which the pupil's family may live. Just as a student may choose to withdraw from a particular college at any time for any personally-determined reason, the college may also at any time decline to continue to accept responsibility for the supervision and service to any student with whom the relationship becomes unpleasant and difficult."

We do not read this provision to clearly indicate an intent on the part of the student to waive notice and a hearing before expulsion. If, however, we should so assume, it nonetheless remains true that the State cannot condition the granting of even a privilege upon the renunciation of the constitutional right to procedural due process. See *Slochower* v. *Board of Education*, 1956, 350 U.S. 551, 556, 76 S. Ct. 637, 100 L.Ed. 692; *Wieman* v. *Updegraff*, 1952, 344, U.S. 183, 191, 192, 73 S. Ct. 215, 97 L.Ed. 216; *United Public Workers of America (C.I.O.)* v. *Mitchell*, 1947, 330 U.S. 75, 100, 67 S. Ct. 556, 91 L.Ed. 754; *Shelton* v. *Tucker*, 1960, 364 U.S. 479, 81 S. Ct. 247, 5 L.Ed. 2d 231. Only private associations have the right to obtain a waiver of notice and hearing before depriving a member of a valuable right. And even here, the right to notice and a hearing is so fundamental to the conduct of our society that the waiver must be clear and explicit.

* * * * *

The precise nature of the private interest involved in this case is the right to remain at a public institution of higher learning in which the plaintiffs were students in good standing. It requires no argument to demonstrate that education is vital and, indeed, basic to civilized society. Without sufficient education the plaintiffs would not be able to earn an adequate livelihood, to enjoy life to the fullest, or to fulfill as completely as possible the duties and responsibilities of good citizens.

There was no offer to prove that other colleges are open to the plaintiffs. If so, the plaintiffs would nonetheless be injured by the interruption of their course of studies in mid-term. It is most unlikely that a public college would accept a student expelled from another public college of the same state. Indeed, expulsion may well prejudice the student in completing his education at any other institution. Surely no one can question that the right to remain at the college in which the plaintiffs were students in good standing is an interest of extremely great value.

Turning then to the nature of the governmental power to expel the plaintiffs, it must be conceded, as was held by the district court, that that power is not unlimited and cannot be arbitrarily exercised. Admittedly, there must be some reasonable and constitutional ground for expulsion or the courts would have a duty to require reinstatement. The possibility of arbitrary action is not excluded by the existence of reasonable regulations. There may be arbitrary application of the rule to the facts of a particular case. Indeed, that result is well nigh inevitable when the Board hears only one side of the issue. In the disciplining of college students there are no considerations of immediate danger to the public, or of peril to the national security, which should prevent the Board from exercising at least the fundamental principles of fairness by giving the accused students notice of the charges and an opportunity to be heard in their own defense. Indeed, the example set by the Board in failing so to do, if not corrected by the courts, can well break the spirits of the expelled students and of others familiar with the injustice, and do inestimable harm to their education.

The district court, however, felt that it was governed by precedent, and stated that, "the courts have consistently upheld the validity of regulations that have the effect of reserving to the college the right to dismiss students at any time for any reason without divulging its reason other than its being for the general benefit of the institution." (186 F. Supp. 951). With deference, we must hold that the district court has simply misinterpreted the precedents.

The language above quoted from the district court is based upon language found in 14 C.J.S. Colleges and Universities § 26, p. 1360, which in turn, in paraphrased from *Anthony* v. *Syracuse University*, 224 App. Div. 487, 231 N.Y. S. 435, reversing 130 Misc. 2d 249, 223 N.Y.S. 796, 797. (14 C.J.S. Colleges and Universities § 26, pp. 1360, 1363 note 70). This case, however, concerns a private university and follows the well-settled rule that the relations between a student and a private university are a matter of contract. The Anthony case held that the plaintiffs had specifically waived their rights to notice and hearing. See also *Barker* v. *Bryn Mawr*, 1923, 278 Pa. 121, 122 A. 220. The precedents for public colleges are collected in a recent annotation cited by the district court. 58 A.L.R. 2d 903–920. We have read all of the cases cited to the point, and we agree with what the annotator himself said: "The cases involving suspension or expulsion of a student from a public college or university all involve the question whether the hearing given to the student was adequate. In every instance the sufficiency of the hearing was upheld." 58 A.L.R. 2d at page 909. None held that no hearing whatsoever was required. In *Commonwealth ex rel Hill* v. *McCauley*, 1886, 3 Pa.Co.Ct.R. 77, the court went so far as to say that an informal presentation of the charges was insufficient and that a state-supported college must grant a student a full hearing on the charges before expulsion for misconduct. In *Gleason* v. *University of Minnesota*, 1908, 104 Minn. 359, 116 N.W. 650, on reviewing the overruling of the state's demurrer to a petition for mandamus for reinstatement, the court held that the plaintiff stated a prima facie case upon showing that he had been expelled without a hearing for alleged insufficiency in work and acts of insubordination against the faculty.

The appellees rely also upon *Lucy* v. *Adams*, D.C.N.D.Ala. 1957, 134 F.Supp. 235, where Autherine Lucy was expelled from the University of Alabama without notice or hearing. That case, however, is not in point. Autherine Lucy did not raise the issue of an absence of notice or hearing.

It was not a case denying any hearing whatsoever but one passing upon the adequacy of the hearing, which provoked from Professor Warren A. Seavey of Harvard the eloquent comment:

"At this time when many are worried about dismissal from public service, when only because of the overriding need to protect the public safety is the identity of informers kept secret, when we proudly contrast the full hearings before our courts with those in the benighted countries which have no due process protection, when many of our courts are so careful in the protection of those charged with crimes that they will not permit the use of evidence illegally obtained, our sense of justice should be outraged by denial of students of the normal safeguards. It is shocking that the officials of a state educational institution, which can function properly only if our freedoms are preserved, should not understand the elementary principles of fair play. It is equally shocking to find that a court supports them in denying to a student the protection given to a pickpocket."

Dismissal of Student: "Due Process," Warren A. Seavey, 70 Harvard Law Review 1406, 1407. We are confident that precedent as well as a most fundamental constitutional principle support our holding that due process requires notice and some opportunity for hearing before a student at a tax-supported college is expelled for misconduct.

For the guidance of the parties in the event of further proceedings, we state our views on the nature of the notice and hearing required by due process prior to expulsion from a state college or university. They should, we think, comply with the following standards. The notice should contain a statement of the specific charges and grounds which, if proven, would justify expulsion under the regulations of the Board of Education. The nature of the hearing should vary depending upon the circumstances of the particular case. The case before us required something more than an informal interview with an administrative authority of the college. By its nature, a charge of misconduct, as opposed to a failure to meet the scholastic standards of the college, depends upon a collection of the facts concerning the charged misconduct, easily colored by the point of view of the witnesses. In such circumstances, a hearing which gives the Board or the administrative authorities of the college an opportunity to hear both sides in considerable detail is best suited to protect the rights of all involved. This is not to imply that a full-dress judicial hearing, with the right to cross-examine witnesses, is required. Such a hearing, with the attending publicity and disturbance of college activities, might be detrimental to the college's educational atmosphere and impractical to carry out. Nevertheless, the rudiments of an adversary proceeding may be preserved without encroaching upon the interests of the college. In the instant case, the student should be given the names of the witnesses against him and an oral or written report on the facts to which each witness testifies. He should also be given the opportunity to present to the Board, or at least to an administrative official of the college, his own defense against the charges and to produce either oral testimony or written affidavits of witnesses in his behalf. If the hearing is not before the Board directly, the results and findings of the hearing should be presented in a report open to the student's inspection. If these rudimentary elements of fair play are followed in a case of misconduct of this particular type, we feel that the requirements of due process of law will have been fulfilled.

It is significant that the Supreme Court of the United States refused to review the decision of the court of appeals in the Dixon case. The decision in the Dixon case established at least two principles pertinent to consideration of the pending amendment: First, a person is entitled to due process of law, including notice, hearing, and an opportunity to present evidence, before he is deprived of a privilege by governmental administrative action; and, second, this is especially true where the harmful impact of administrative action adversely affects the educational opportunities of a person.

Although the decision in the Dixon case dealt with protection of the rights of due process of law from State deprivation, as guaranteed by the "due process

clause" of the 14th amendment, the same reasoning would apply to protection from deprivation by the United States of the rights of due process of law as guaranteed by the "due process clause" of the fifth amendment. See *Bolling* v. *Sharpe* (347 U.S. 497).

The decision of the Supreme Court of the United States in the case of *Wieman* v. *Updegraff* (344 U.S. 183), considered the constitutionality of an Oklahoma loyalty oath prescribed by an Oklahoma statute for all State officials and employees. As part of the loyalty oath, the affiant was required to swear that he was not, and had not been, a member of the Communist Party or any organization officially determined by the Attorney General of the United States to be a Communist front or subversive organization.

The opinion of the Supreme Court, by Mr. Justice Clark, discussed the problem in the following manner:

In a series of cases coming here in recent years, we have had occasion to consider legislation aimed at safeguarding the public service from disloyalty. *Garner* v. *Board of Public Works*, 341 U.S. 716 (1951); *Adler* v. *Board of Education*, 342 U.S. 485 (1952); *Gerende* v. *Board of Supervisors*, 341 U.S. 56 (1951). It is in the context of these decisions that we determine the validity of the oath before us.

* * * * *

We assumed in *Garner*, that if our interpretation of the oath as containing an implicit *scienter* requirement was correct, Los Angeles would give the petitioners who had refused to sign the oath an opportunity to take it as interpreted and resume their employment. But here, with our decision in *Garner* before it, the Oklahoma Supreme Court refused to extend the appellants an opportunity to take the oath. In addition, a petition for rehearing which urged that failure to permit appellants to take the oath as interpreted deprived them of due process was denied. This must be viewed as a holding that knowledge is not a factor under the Oklahoma statute. We are thus brought to the question touched on in *Garner*, *Adler*, and *Gerende:* whether the Due Process Clause permits a state, in attempting to bar disloyal individuals from its employ, to exclude persons solely on the basis of organizational membership, regardless of their knowledge. For, under the statute before us, the fact of membership alone disqualifies. If the rule be expressed as a presumption of disloyalty, it is a conclusive one.

But membership may be innocent. A state servant may have joined a proscribed organization unaware of its activities and purposes. In recent years, many completely loyal persons have severed organizational ties after learning for the first time of the character of groups to which they had belonged. "They had joined (but), did not know what it was, they were good, fine young men and women, loyal Americans, but they had been trapped into it—because one of the great weaknesses of all Americans, whether adult or youth, is to join something." At the time of affiliation, a group itself may be innocent, only later coming under the influence of those who would turn it toward illegitimate ends. Conversely, an organization formerly subversive and therefore designated as such may have subsequently freed itself from the influences which originally led to its listing.

There can be no dispute about the consequences visited upon a person excluded from public employment on disloyalty grounds. In the view of the community, the stain is a deep one; indeed, it has become a badge of infamy. Especially is this so in time of cold war and hot emotions when "each man begins to eye his neighbor as a possible enemy." Yet under the Oklahoma Act, the fact of association alone determines disloyalty and disqualification; it matters not whether association existed innocently or knowingly. To thus inhibit individual freedom of movement is to stifle the flow of democratic expression and controversy at one of its chief sources. We hold that the distinction observed between the case at bar and Garner, Adler and Gerende is decisive. Indiscriminate classification of innocent with knowing activity must fall as an assertion of arbitrary power. The oath offends due process.

But appellee insists that *Adler* and *United Public Workers* v. *Mitchell*, 330 U.S. 75 (1947), are contra. We are referred to our statement in *Adler* that persons seeking employment in the New York public schools have "no right to work for the State in the school system on their own terms. *United Public Workers* v. *Mitchell* . . . They may work for the school system upon the reasonable terms laid down by the proper authorities of New York." 342 U.S., at 492. To draw from this language the facile generalization that there is no constitutionally protected right to public employment is to obscure the issue. For, in *United Public Workers*, though we held that the Federal Government through the Hatch Act could properly bar its employees from certain types of political activity thought inimical to the interests of Civil Service, we cast this holding into perspective by emphasizing that Congress could not "enact a regulation providing that no Republican, Jew or Negro shall be appointed to federal office, or that no federal employee shall attend Mass or take any active part in missionary work." 330 U.S. at 100. See also *In re Summers*, 325 U.S. 561, 571 (1945). We need not pause to consider whether an abstract right to public employment exists. It is sufficient to say that constitutional protection does not extend to the public servant whose exclusion pursuant to a statute is patently arbitrary or discriminatory.

The case of *Slochower* v. *Board of Higher Education of New York City* (350 U.S. 551) dealt with section 903 of the charter of the city of New York which provided that whenever an employee of the city utilizes the privilege against self-incrimination to avoid answering a question relating to his official conduct, his term or tenure of office or employment shall terminate and such office or employment shall be vacant, and he shall not be eligible to election or appointment to any office or employment under the city or any agency thereof.

Mr. Slochower was an associate professor at Brooklyn College and invoked the privilege against self-incrimination under the fifth amendment before an investigating committee of the U.S. Senate. Consequently, he was discharged from his position as associate professor pursuant to section 903.

In holding that Professor Slochower was entitled to notice, hearing, and an opportunity to present evidence, the Supreme Court, again speaking through Mr. Justice Clark, applied the principles of due process of law to that case as follows:

Slochower had 27 years' experience as a college teacher and was entitled to tenure under state law. McKinney's New York Laws, Education Law, §6206 (2). Under this statute, appellant may be discharged only for cause, and after notice, hearing, and appeal. § 6206 (10). The Court of Appeals of New York, however, has authoritatively interpreted § 903 to mean that "the assertion of the privilege against self incrimination is equivalent to a resignation." *Daniman* v. *Board of Education*, 306 N.Y. 532, 538, 119 N.E. 2d 373, 377. Dismissal under this provision is therefore automatic and there is no right to charges, notice, hearing, or opportunity to explain.

* * * * *

Slochower argues that § 903 abridges a privilege or immunity of a citizen of the United States since it in effect imposes a penalty on the exercise of a federally guaranteed right in a federal proceeding. It also violates due process, he argues, because the mere claim of privilege under the Fifth Amendment does not provide a reasonable basis for the State to terminate his employment. Appellee insists that no question of "privileges or immunities" was raised or passed on below, and therefore directs its argument solely to the proposition that § 903 does not operate in an arbitrary or capricious manner. We do not decide whether a claim under the "privileges or immunities" clause was considered below, since we conclude the summary dismissal of appellant in the circumstances of this case violates due process of law.

The problem of balancing the State's interest in the loyalty of those in its service with the traditional safeguards of individual rights is a continuing one. To state that a person does not have a constitutional right to government employment is only to say that he must comply with reasonable, lawful, and nondiscriminatory terms laid down by the proper authorities. *Adler* v. *Board of Education*, 342 U.S. 485, upheld the New York Feinberg Law which authorized the public school authorities to dismiss employees who, after notice and hearing, were found to advocate the overthrow of the Government by unlawful means, or who were unable to explain satisfactorily membership in certain organizations found to have that aim. Likewise *Garner* v. *Los Angeles Board*, 341 U.S. 716, 720 upheld the right of the city to inquire of its employees as to "matters that may prove relevant to their fitness and suitability for the public service," including their membership, past and present, in the Communist Party or the Communist Political Association. There it was held that the city had power to discharge employees who refused to file an affidavit disclosing such information to the school authorities.

But in each of these cases, it was emphasized that the State must conform to the requirements of due process. In *Wieman* v. *Updegraff*, 344 U.S. 183, we struck down a so-called "loyalty oath" because it based employability solely on the fact of membership in certain organizations. We pointed out that membership itself may be innocent and held that the classification of innocent and guilty together was arbitrary. This case rests squarely on the proposition that "constitutional protection does extend to the public servant whose exclusion pursuant to a statute is patently arbitrary or discriminatory." 344 U.S., at 192.

* * * * *

With this in mind, we consider the application of § 903. As interpreted and applied by the state courts, it operates to discharge every city employee who invokes the Fifth amendment. In practical effect the questions asked are taken as confessed and made the basis of the discharge. No consideration is given to such factors as the subject matter of the questions, remoteness of the period to which they are directed, or justification for exercise of the privilege. It matters not whether the plea resulted from mistake, inadvertence or legal advice conscientiously given, whether wisely or unwisely. The heavy hand of the statute falls alike on all who exercise their constitutional privilege, the full enjoyment of which every person is entitled to receive. Such action falls squarely within the prohibition of *Wieman* v. *Updergraff*, *supra*.

It is one thing for the city authorities

themselves to inquire into Slochower's fitness, but quite another for his discharge to be based entirely on events occurring before a federal committee whose inquiry was announced as not directed at "the property, affairs, or government of the city, or . . . official conduct of city employees." In this respect the present case differs materially from *Garner*, where the city was attempting to elicit information necessary to determine the qualifications of its employees. Here, the Board had possessed the pertinent information for 12 years, and the questions which Professor Slochower refused to answer were admittedly asked for a purpose wholly unrelated to his college functions. On such a record the Board cannot claim that its action was part of a bona fide attempt to gain needed and relevant information.

Without attacking Professor Slochower's qualifications for his position in any manner, and apparently with full knowledge of the testimony he had given some 12 years before at the state committee hearing, the Board seized upon his claim of privilege before the federal committee and converted it through the use of § 903 into a conclusive resumption of guilt. Since no inference of guilt was possible from the claim before the federal committee, the discharge falls of its own weight as wholly without support. There has not been the "protection of the individual against arbitrary action" which Mr. Justice Cardozo characterized as the very essence of due process. *Ohio Bell Telephone Co.* v. *Commission*, 301 U.S. 292, 302.

This is not to say that Slochower has a constitutional right to be an associate professor of German at Brooklyn College. The State has broad powers in the selection and discharge of its employees, and it may be that proper inquiry should show Slochower's continued employment to be inconsistent with a real interest of the State. But there has been no such inquiry here. We hold that the summary dismissal of appellant violates due process of law.

The case of *Sherbert* v. *Verner* (374 U.S. 398), concerned the right to receive unemployment compensation benefits under the South Carolina Unemployment Compensation Act. That act provided, in part, that a claimant is ineligible for benefits if he has failed, without good cause, to accept available suitable work when offered him. The claimant was a member of the Seventh-day Adventist Church, who was discharged by her South Carolina employer because she would not work on Saturday, the Sabbath Day of her faith. She was unable to obtain other employment because she would not work on Saturday, and she filed a claim for benefits under the Unemployment Compensation Act. The State Unemployment Commission denied the claim on the ground that she would not accept suitable work when offered, and its action was sustained by the Supreme Court of South Carolina.

The case was appealed to the Supreme Court of the United States, and it was argued there that the receipt of unemployment compensation benefits is a privilege, not a right, and that the State may impose any condition to the granting of that privilege.

In holding that the action of the South Carolina Unemployment Commission in denying unemployment compensation benefits to claimant violate the "establishment of religion clause of the first amendment," the Supreme Court made the following statement of law:

Nor may the South Carolina court's construction of the statute be saved from constitutional infirmity on the ground that unemployment compensation benefits are not appellant's "right" but merely a "privilege." It is too late in the day to doubt that the liberties of religion and expression may be infringed by the denial of our placing of conditions upon the benefit or privilege. *American Communications Assn.* v. *Douds*, 339 U.S. 382, 390; *Wieman* v. *Updegraff*, 344 U.S. 183, 191–192; *Hannegan* v. *Esquire, Inc.*, 327 U.S. 146, 155–156. For example, in *Flemming* v. *Nestor*, 363 U.S. 603, 611, the Court recognized with respect to Federal Social Security benefits that "(t)he interest of a covered employee under the Act is of sufficient substance to fall within the protection from arbitrary governmental action afforded by the Due Process Clause" In *Speiser* v. *Randal*, 357 U.S. 513, we emphasize that conditions upon public benefits cannot be sustained if they so operate, whatever their purpose, as to inhibit or deter the exercise of First Amendment freedoms. We there struck down a condition which limited the availability of a tax exemption to those members of the exempted class who affirmed their loyalty to the state government granting the exemption. While the State was surely under no obligation to afford such an exemption, we held that the imposition of such a condition upon even a gratuitous benefit inevitably deterred or discouraged the exercise of the First Amendment rights of expression and thereby threatened to "produce a result which the State could not command directly." 357 U.S. at 526. "To deny an exemption to claimants who engage in certain forms of speech is in effect to penalize them for such speech" *Id.*, at 518. Likewise, to condition the availability of benefits upon this appellant's willingness to violate a cardinal principle of her religious faith effectively penalizes the free exercise of her constitutional liberties.

The most striking example of decisions by the courts involving conditions attached to the granting of a privilege by the Congress of the United States and the legislatures of the several States is a series of recent decisions by three-judge U.S. district courts voiding the 1-year residence requirements for the payment of welfare benefits in the District of Columbia, Delaware, Connecticut, and Pennsylvania. These cases are *Harrell and Legrant* v. *Tobriner* (— F. Supp. —), decided November 2, 1967, District of Columbia; *Thompson* v. *Shapiro* (270 F. Supp. 31), Connecticut; *Green* v. *Department of Public Welfare* (270 F. Supp. 173), Delaware; and *Smith* v. *Reynolds* (— F. Supp. —), Pennsylvania. A final decision has not been reached in the Pennsylvania case, but enforcement of a 1-year residence requirement in that State has been preliminary enjoined on constitutional grounds.

In Harrell and Legrant against Tobriner, supra, the district court was considering the validity of an act of Congress which established a 1-year residence requirement for payment of welfare benefits in the District of Columbia. The court there gave the argument that since receipt of welfare payments is a privilege, not a right, Congress can attach any conditions it chooses thereto, short shrift:

It is said that Congress in gratutiously providing for assistance may not be held to constitutional standards. The decisions are to the contrary. In *Sherbert* v. *Verner*, 374 U.S. 398, 404, the Supreme Court held that the fact that "unemployment compensation benefits are not appellant's 'right' but merely a 'privilege' " does not save a statute limiting such rights from "constitutional infirmity." There is no indication in our cases that Congress desired unequal protection of the laws. Congress viewed the eligibility provision as justified. Our judicial problem is to determine the reasonableness of the difference in treatment which the challenged requirement imposes upon those in need of public assistance. There is no escape from the proposition that, in carrying forward a comprehensive program of this character, restrictions having no reasonable relationship to the basic purposes of the program are not immune from attack because the Congress was not under legal obligation to inaugurate the program.

In the case of Thompson against Shapiro, supra, the district court disposed of this issue in the following manner:

Granted, the state may provide assistance in a limited form with restrictions, so long as the restrictions are not arbitrary; but, in any case where the government confers advantages on some, it must justify its denial to others by reference to a constitutionally recognized reason. See *Sherbert* v. *Verner, supra*; *Speiser* v. *Randall*, 357 U.S. 513, 78 S. Ct. 1332, s L. Ed. 2d 1460 (1958). In *Carrington* v. *Rash*, 380 U.S. 89, 96, 85 S. Ct. 775, 13 L. Ed. 2d 675 (1965), while striking down a Texas law which prevented servicemen from voting, the Court was careful to emphasize that, "Texas is free to take reasonable and adequate steps * * * to see that all applicants for the vote actually fulfill the requirement of bona fide residence." For example, if there were here a time limit applied equally to all, for the purpose of prevention of fraud, investigation of indigency or other reasonable administrative need, it would undoubtedly be valid. Connecticut's Commissioner of Welfare frankly testified that no residence requirement is needed for any of these purposes.

The holding of the foregoing cases may be summed up as follows:

First. Neither the United States nor the States may deny any person a privilege without due process of law.

Second. What constitutes due process of law in administrative proceedings before a Government agency varies from case to case, but the rights of due process almost always include the right to notice, hearing, and to present evidence before adverse administrative action is taken, unless some strong countervailing reason can be shown why these rights should not be accorded in a particular case.

Third. The due process rights of notice, hearing, and presentation of evidence should be afforded especially where unfavorable administrative action would adversely affect the right to obtain educational opportunities.

There are many cases decided by the courts which define the meaning of due process of law. A review of those cases will clearly show that the amendment should be adopted, so as to provide the basic minimum requirements of due process of law to the school boards and school districts in terminating the payment of Federal funds in federally assisted programs.

Actually, we do not need to rely on this line of cases in order to show the need for this amendment.

The application of plain logic and commonsense tells us that the use of the present procedure whereby Federal functionaries mail a notice to school district officials, without any notice or hearing, informing them that the payment of

Federal funds has been "deferred," is so flagrantly unfair as to offend the basic principles of due process of law.

Why do these Federal functionaries want to act in such an arbitrary and capricious manner so as to violate the rights of due process of law vested in the officials of the school district, the affected school children, and the taxpayers?

They can give no good reason.

The law enacted by Congress already requires that notice, hearing, and an opportunity to present evidence be given the school districts before a decision is made to cut off Federal funds. Section 602 of title VI of the Civil Rights Act of 1964 (78 Stat. 252–253), which provides the manner in which the payment of funds can be terminated states as follows:

Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 601 with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: Provided, however, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirements and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and the Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

This law clearly provides that no Federal agency may terminate, or refuse to grant or to continue assistance under any program or activity until there has been an express finding on the record, after opportunity for hearing, of a failure to comply with a rule, regulation, or order, adopted by such agency to guarantee that no person shall, on the grounds of religion, color, or national origin be excluded from participating in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

It is outrageous that it is necessary to offer an amendment to this bill to make certain that these Federal agencies comply with the clear provisions of presently existing law. This is made necessary by the obstinate refusal of those persons in charge of administering the payment of Federal funds to school districts to adhere to the clearly expressed congressional intent in enacting said section 602 of the Civil Rights Act of 1964.

Congress was certain when it enacted section 602 that it was giving the school districts a "day in court" before payment of Federal money could be terminated. In my judgment, most Members of Congress thought they were affording some rights of due process of law to the school districts. However, the maladministration of this law has frustrated the intent of Congress and has created the necessity for the enactment of the amendment.

An effort is made to justify the ex parte termination of funds on the basis that such action merely constitutes the "deferral" of the payment of funds, and that the school districts still have a right to a hearing to determine whether such funds should be "terminated."

This play on words, this semantic trick, would make a freshman in logic blush. The mind that would accept this as good reasoning would speculate as to how many angels could dance on the head of a needle.

Section 602 speaks of "the termination or refusal to grant or to continue assistance under such program or activity." What is the difference between "refusal to grant assistance" and "deferral"? What is the difference between "refusal to continue assistance" and "deferral"? In both cases, the answer is "none." The fact of the matter is that every action of HEW or the Office of Education in "deferring" payment of Federal funds without notice or hearing, has in fact constituted a refusal to grant assistance or a refusal to continue assistance.

By adopting the amendment, we will make clear to those in charge of administering Federal programs what their duties are under the law.

I strongly urge the adoption of the amendment, which would restore some of the rights of due process of law to the officials of the school districts and schoolchildren.

REPRESENTATIVE CLAUDE PEPPER: CHAMPION OF NATIONAL HEALTH CARE

Mr. HOLLAND. Mr. President, my former colleague in the Senate, the Honorable CLAUDE PEPPER, now a Member of the House of Representatives, representing the 11th District of Florida, which State I have the honor to represent in part, was recently chosen to receive the Albert Lasker Public Service Award for "his continuing service to medical legislation and his dedicated zeal against the diseases which erode our Nation's economic and physical strength."

The award by the Albert and Mary Lasker Foundation was presented to Representative PEPPER at a luncheon in New York on November 9, 1967.

CLAUDE PEPPER was elected by the people of Florida to the U.S. Senate in November 1936, and during his first year in the Senate, while serving on the Senate Labor and Public Health Committee, he cosponsored the legislation creating the first of the "categorical" National Institutes of Health—the National Cancer Institute. Later, he sponsored legislation for the National Institute of Mental Health; the National Heart Institute, the National Institute of Neurological Diseases and Blindness, and the National Institute of Arthritis and Metabolic Diseases.

CLAUDE PEPPER continued his efforts in the health field during World War II as chairman of the Subcommittee on Wartime Health and Education and supported a national system of health insurance.

After being elected to the House of Representatives in 1962, he continued his efforts in this field by his joint sponsorship of the Community Mental Health and Mental Retardation Act of 1963; the Nurse Training Act of 1964; the Health Professions Educational Assistance Act, and the Heart Disease, Cancer, and Stroke Amendments of 1965.

We in Florida are justly proud of the recognition of the valuable contributions CLAUDE PEPPER has made to the health field, and we greatly appreciate his having been given the Albert Lasker Award.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point five articles, all of which expound on the accomplishments of CLAUDE PEPPER—namely, an article which appeared in the November 17, 1967, issue of the Medical World News entitled "Champion of National Health Care"; an editorial which appeared in the Daytona Beach Morning Journal of November 10, 1967, entitled "An Honor Deserved"; an editorial which appeared in the St. Petersburg Times of November 12, 1967, entitled "A Smear Becomes an Honor"; an editorial which appeared in the Miami News of November 13, 1967, entitled "Stalwarts for Health"; and an editorial which appeared in the Miami Herald of November 17, 1967, entitled "How Times Change: MD's Love PEPPER."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAMPION OF NATIONAL HEALTH CARE

In the dawning years of the 20th century, Claude Pepper recalls seeing "most pitiful" examples of poor health care in Alabama where he grew up. He remembers "rural people coming into town with dead babies in their arms because they could not get anybody to administer medical care."

The indelible imprint of these memories remained with the fiery Southerner all through the years during which he took a law degree at Harvard and established a practice in Perry, Fla. The remembrances continued to motivate him through his long career on Capitol Hill as a senator and congressman. For his unremitting efforts to improve the nation's health, he has now won the Albert Lasker Public Service Award.

Starting when he was elected to the Senate in 1936, Pepper worked constantly to obtain more federal funds to train doctors, build

hospitals, and establish and maintain the National Institutes of Health. Going even further, he spoke out strongly for a national health insurance plan. This drew the vehement opposition of the AMA and individual doctors.

One of Representative Pepper's greatest frustrations today is with colleagues who want to cut federal funds for medical research. "I shall always remember that a good many men in the Senate who strenuously opposed the efforts to get research in the fields of cancer and heart disease later died from cancer and heart disease. And the research is opposed even today."

For Pepper, these programs have always had human relevance. "My mother lived for several years after her first heart attack by use of blood-thinning medicine, which, I, think, was developed by the National Intitutes of Health. Suppose I said, 'Now, Mama, I'm sorry you had that heart attack; you know, we could have developed a blood-thinning medicine, but we didn't have the money to do it and you'll just have to go on and die because it is not available.' "

AN HONOR DESERVED

An honor richly deserved went to Florida's Claude Pepper this week.

At a ceremony in New York Thursday he was presented the Albert Lasker Public Service Award "for his continuing dedication to medical legislation in both Houses of Congress for 30 years."

It began for him as a U.S. Senator as he was elected without opposition to fulfill an unexpired term. He was a liberal in an era when people were not suspicious of liberalism.

Sen. Pepper was one of the first advocates of a program of national health insurance because his many excursions to other nations where such health care was in effect convinced him that America was lagging in concern for its ailing poor. He advocated a policy of friendly relations with the Russians in the name of World harmony. He considered Negroes as citizens and championed an end to voter discrimination.

Then along came that "freeze" again in 1950—and George Smathers.

The cold climate of antiliberalism froze Claude Pepper out of the Senate.

Other men with less dedication to public service would have given up, but not Florida's Pepper. He settled for a less august position in the House of Representatives, and went on fighting for the things of concern to the mass of Americans.

America progressed, despite the lingering climate of suspicion. It did begin to establish better relations with the Communists. It did enact laws to end oppression of Negroes. It did establish medicare and medicaid to help the old and the poor.

Not long ago, Pepper reminisced: "Now, everything I stood for then has come true . . . and George Smathers, as chairman of a subcommittee on the needs of our senior citizens, was forced to come into the fold of the concerned."

Congratulations, Mr. Pepper. The award certainly has found its proper recipient.

A SMEAR BECOMES AN HONOR

One of the great injustices of American politics was at least partially corrected last week in a ceremony that didn't receive as much attention in Florida as it deserved.

The event was the presentation of the 1967 Albert Lasker Medical Public Service Award to U.S. Rep. Claude D. Pepper of Florida. He was selected for the Lasker Foundation's tribute by a committee headed by Dr. Michael DeBakey, the heart surgeon.

Pepper more than deserved the honor. As a U.S. senator from Florida in 1937, he cosponsored legislation that created the first of the National Institutes of Health. As chairman of the Senate Health and Education Committee during World War II, he gave leadership to studies that eventually produced the Hill-Burton program of federal hospital construction. During 30 years in the Senate and House, Pepper has worked regularly for better medical care and medical research.

The heavy irony in Pepper's medical citation reaches back to 1950 and the bitter political campaign in which Pepper was defeated by U.S. Sen. George Smathers. Pepper was smeared as an extremist because he had proposed Medicare. Doctors in Florida contributed thousands of dollars to the campaign that defeated Pepper.

Today medicare is a popular success that isn't even very controversial. Instead of working to defeat Pepper, one of the nation's leading doctors honors him for "continuing service to medical legislation in both houses of Congress and dedicated zeal against diseases which erode our nation's economic and physical strength."

The wounds of 1950 are not completely healed, but events in New York last week certainly soothed them.

STALWARTS FOR HEALTH

(By Howard A. Rusk, M.D.)

Never in the 22 years since the establishment of the Albert Lasker Medical Research Awards has the choice of the winners been more exciting. This year's awards, presented last week, include a prize of $10,000 and a gold statuette of the Winged Victory of Samothrace, symbolizing victory over death and disease.

The basic medical research award went to Dr. Bernard B. Brodie, chief of the Laboratory of Chemical Pharmacology, National Heart Institute, National Institutes of Health. His citation reads:

"Probably no man has contributed more to the body of knowledge which makes possible the rational use of drugs in the treatment of many diseases. His most extraordinary contributions to biochemical pharmacology over 30 years have had a profound influence on the use of drugs in the therapy of cardiovascular diseases, mental and emotional disorders, and cancer. . .

"Dr. Brodie also proposed a new line of attack on schizophrenia, and this concept led to numerous studies attempting to correlate the way in which nerve impulses are transmitted and their relation to clinical patterns of behavior.

"His early work on the distribution and metabolism of anti-malarial, anesthetic and hypnotic drugs has led to many basic pharmacological concepts which are now used in the development of new therapeutic agents."

The Albert Lasker Public Service Award was given to Rep. Claude D. Pepper (D., Fla.) for his devotion to the cause of medical research through the years.

When he was a U.S. senator (1936–51) Pepper introduced the first legislation that sponsored the Institutes of Mental Health, Heart, Neurological Diseases and Blindness, and Arthritis and Metabolic Diseases.

When Pepper first held hearings in 1944 the budget of the National Institutes of Health, including grants for research and training and construction, was $2.4 million. Last year it was more than $1.5 billion.

The Albert Lasker Clinical Research Award to an investigator whose research contributed directly to the alleviation or elimination of one of the major medical causes of death or disability, resulting in the prolongation of life, was presented this year to Dr. Robert Allan Phillips Capt., USN (Ret.) director, Pakistan-SEATO Cholera Research Laboratory, Dacca, East Pakistan.

Cholera is an infectious disease caused by the growth of the organism of vibrio cholera in the intestine. It is characterized by diarrhea.

Dr. Phillips found that by replacing the blood electrolytes and fluid with heretofore-unheard-of amounts of simple salt solutions intravenously, the patient rapidly recovered. Under this simple treatment the mortality rate today is less than one-half of 1 per cent.

HOW TIMES CHANGE: MD'S LOVE PEPPER

(By John McDermott)

How times do change! Back in 1950 when Claude Pepper was running for reelection to the U.S. Senate some of his strongest opposition came from the medical profession. The liberal leanings of the senator cost him countless votes and many campaign dollars—and helped George Smathers defeat him in the bitterest-ever primary.

A few days ago Pepper, now a Miami congressman, was named the 1967 recipient of the Albert Lasker Public Service Award for his "continuing dedication to medical legislation in both Houses of Congress for 30 years." With the award goes $10,000. "It is a little ironic, but most gratifying, to be cited for this high honor," commented Pepper. Some doctors, who openly opposed Pepper as a senator, today sing his praises, too.

Although Pepper would like nothing better than to return to the Senate, indications are the 67-year-old veteran politico will seek reelection to a fourth term in the House. The congressman played host to Vice President Hubert H. Humphrey Saturday, introducing him to the Young Democrats National Convention at the Diplomat and then to a picnic of his supporters at Greynolds Park.

Mr. HILL. Mr. President, will the Senator yield?

Mr. HOLLAND. I am happy to yield to the distinguished Senator from Alabama.

Mr. HILL. Mr. President, I am delighted that my good friend, the senior Senator from Florida, has paid tribute to our former colleague, now Representative CLAUDE PEPPER, in winning the Lasker Public Service Award.

I served on the Committee on Labor and Public Welfare with Representative PEPPER when he was a Member of the Senate. I know how indefatigable he was in his efforts in bringing into being many facilities we have in the National Institutes of Health that have done so much and have made such outstanding contributions not only to the health of the people of our country, but all people.

I rejoice that Congressman PEPPER has received this recognition by the Albert and Mary Lasker Foundation. He certainly richly deserved it. He labored many weeks, months, and years to bring about these Institutes for the health of our people and, as I have said, of all people.

Mr. HOLLAND. I thank my distinguished friend for his kind comments. I know that they are well deserved by our former colleague and I know he will appreciate the Senator rising to speak on the floor at this time because the senior Senator from Alabama is regarded as the spearhead in the Senate of our efforts in behalf of suffering mankind. Representative PEPPER will particularly appreciate the comments coming from the distinguished Senator from Alabama.

Mr. HILL. I thank the distinguished Senator from Florida for his generous remarks about me. I am, indeed, most grateful to him.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIRKSEN. Mr. President, I ask unanimous consent to vacate the order for the yeas and nays on the Dirksen amendment.

The PRESIDING OFFICER (Mr. BYRD of Virginia in the chair). Is there objection? The Chair hears none, and it is so ordered.

Mr. DIRKSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DIRKSEN. What will be the effect of this action upon the amendment to the amendment?

The PRESIDING OFFICER. It has no effect on the second amendment.

Mr. DIRKSEN. I thought I was advised that when the original amendment was no longer supported with the yeas and nays, that that had an effect on the modifying amendment. However, perhaps that does not come until I ask unanimous consent to withdraw my amendment, which I do.

The PRESIDING OFFICER. The Senator is permitted to withdraw his amendment if he so desires.

Mr. DIRKSEN. Now what is the effect of the modifying amendment?

The PRESIDING OFFICER. The amendment to the amendment now falls.

The bill is open to amendment.

Mr. DIRKSEN. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DIRKSEN. The effect of the consent of the Senate to this action in no wise operates prejudicially to the offering of an amendment to this or any other bill similar to or identical to the Dirksen amendment. Is that correct?

The PRESIDING OFFICER. It has no effect.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily and that the Senate go into executive session to consider Executive K, 90th Congress.

Mr. MORSE. Mr. President, will the Senator assure me that he uses the word "temporarily" advisedly?

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider executive business.

PROTOCOL FOR THE FURTHER PROLONGATION OF THE INTERNATIONAL SUGAR AGREEMENT

The PRESIDING OFFICER. The question is on the request of the Senator from Montana to proceed to the consideration of Executive K, 90th Congress, first session.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the treaty (Ex. K, 90th Cong., first sess.), the Protocol for the Further Prolongation of the International Sugar Agreement of 1958, done at London, November 14, 1966, which was read the second time, as follows:

PROTOCOL FOR THE FURTHER PROLONGATION OF THE INTERNATIONAL SUGAR AGREEMENT OF 1958

The Governments party to this Protocol,

Considering that the International Sugar Agreement of 1958 (hereinafter referred to as "the Agreement"), as extended by the Protocol of 1963 for the Prolongation of the International Sugar Agreement of 1958 and the Protocol of 1965 for the Further Prolongation of the International Sugar Agreement of 1958 (hereinafter referred to as "the previous Protocols") will expire on 31 December 1966;

Desiring to continue the Agreement in force for a further period pending the entry into force of a new International Sugar Agreement under the auspices of the United Nations;

Reaffirming their intention urgently to consider possible bases for a new International Sugar Agreement to replace the Agreement;

Have agreed as follows:

ARTICLE 1

(1) Subject to the provisions of Article 2, the Agreement shall continue in force between the parties to this Protocol until 31 December 1968. Should a new International Sugar Agreement enter into force before that date, this Protocol shall cease to have effect on the date of the entry into force of the new International Sugar Agreement.

(2) Any Government which was not party to the Agreement but which becomes a party to this Protocol shall thereby be deemed to be a party to the Agreement as extended in force.

ARTICLE 2

Paragraphs (2) and (3) of Article 3, Articles 7 to 25 inclusive, Articles 41 and 42 and paragraphs (4) and (7) of Article 44 of the Agreement shall be deemed to be inoperative.

ARTICLE 3

(1) Governments may become party to this Protocol

(*a*) by signing it; or

(*b*) by ratifying, accepting or approving it after having signed it subject to ratification, acceptance or approval; or

(*c*) by acceding to it.

(2) When signing this Protocol each signatory Government shall formally state whether, in accordance with its constitutional procedures, its signature is, or is not, subject to ratification, acceptance or approval.

ARTICLE 4

(1) This Protocol shall be open for signature at London from 14 November to 30 December 1966, inclusive, by the Governments party to either of the previous Protocols and by the Government of any other country referred to in Article 33 or 34 of the Agreement.

(2) Where ratification, approval or acceptance is required, the relevant instrument shall be deposited with the Government of the United Kingdom of Great Britain and Northern Ireland.

(3) After 30 December 1966 this Protocol shall be open for accession by the Government of any country referred to in Article 33 or 34 of the Agreement, by deposit of an instrument of accession with the Government of the United Kingdom of Great Britain and Northern Ireland.

(4) This Protocol shall also be open for accession by the Government of any Member of the United Nations or any Government invited to the United Nations Sugar Conference, 1965, but not referred to in Article 33 or 34 of the Agreement, provided that the number of votes to be exercised in the Council by the Government desiring to accede shall first be agreed upon by the Council with that Government.

ARTICLE 5

(1) This Protocol shall enter into force on 1 January 1967 among those Governments which have by that date become parties to this Protocol, provided that such Governments hold 60 per cent of the votes of the importing countries and 70 per cent of the votes of the exporting countries under the Agreement as extended by the previous Protocols on 31 December 1966. Instruments of ratification, acceptance, approval or accession deposited thereafter shall take effect on the date of their deposit.

(2) In calculating whether the percentage requirements referred to in paragraph (1) of this Article have been met, a notification containing an undertaking to seek ratification, acceptance, approval or accession in accordance with constitutional procedures as rapidly as possible and if possible before 1 July 1967, received by the Government of the United Kingdom of Great Britain and Northern Ireland before 1 January 1967, shall be taken into account.

(3) If by 1 January 1967 this Protocol has not entered into force, the Governments which have satisfied the requirements of Article 3 may agree to put it into force among themselves.

ARTICLE 6

Where reference is made in the Agreement or in this Protocol to Governments or countries listed or referred to in particular articles, any country not referred to in Article 33 or 34 of the Agreement the Government of which either has become a party to the Agreement before 1 January 1964, or has become a party to either of the previous Protocols or to this Protocol, shall be deemed to be listed or referred to accordingly.

ARTICLE 7

Governments party to this Protocol undertake to pay their contributions under Article 38 of the Agreement according to their constitutional procedures. At its first session under this Protocol the Council shall approve its budget for the first year and assess the contributions to be paid by each Participating Government.

ARTICLE 8

(1) The Government of the United Kingdom of Great Britain and Northern Ireland shall promptly inform all Governments represented at the United Nations Sugar Conference, 1965, of each signature, ratification, acceptance and approval of this Protocol, of each accession thereto, of each notification received pursuant to paragraph (2) of Article 5 and of the date of entry into force of this Protocol.

(2) This Protocol, of which the English, Chinese, French, Russian and Spanish texts are equally authoritative, shall be deposited with the Government of the United Kingdom of Great Britain and Northern Ireland, which shall transmit certified copies thereof to each signatory and acceding Government.

IN WITNESS WHEREOF the undersigned, having been duly authorised to this effect by their respective Governments, have signed this Protocol.

DONE at London, the fourteenth day of November, one thousand nine hundred and sixty-six.

For Argentina:

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For Australia:

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For Belgium:

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For Bolivia:

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For Brazil:
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For Canada:
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For Ceylon:
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For Sweden:
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For Trinidad and Tobago:
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For Tunisia:
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For the Union of Soviet Socialist Republics:
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For the United Kingdom of Great Britain and Northern Ireland:
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For the United States of America:
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For the Upper Volta:
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Certified a true copy:
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[SEAL]

V. A. TODD,
(For Librarian and Keeper of the Papers for the Secretary of State for Foreign Affairs).

NOVEMBER 14, 1966.

Mr. MANSFIELD. Mr. President, this is the International Sugar Agreement, which was reported by the Foreign Relations Committee unanimously. It has nothing to do with the domestic sugar market. It has nothing to do with prices. It calls for the expenditure of $20,000 on the part of this country.

I ask unanimous consent that excerpts from the report covering the purpose of the protocol, the background, and the committee comments and recommendations be incorporated at this point in the RECORD.

There being no objection, the extracts were ordered to be printed in the RECORD, as follows:

1. PURPOSE OF THE PROTOCOL

The purpose of the protocol is to extend the administrative provisions of the International Sugar Agreement of 1958 from December 31, 1966, to December 31, 1968. The economic provisions of the agreement having to do with price ranges and export quotas expired December 31, 1961, and are not affected by the pending protocol.

2. BACKGROUND

The International Sugar Agreement of 1958 (Ex. D, 86th Cong., first sess.), which was itself a modification of earlier agreements dating back to the 1930's, established export quotas and made other arrangements designed to stabilize the price of sugar on the world free market. These provisions expired by their own terms December 31, 1961, when the contracting parties were unable to agree on an extension (largely because of Cuban insistence on a higher quota).

The administrative mechanism of the 1958 agreement however, consisting of the International Sugar Council and its work of collecting and disseminating statistical information, continued in being until December 31, 1963. It has since been extended twice—the first time until December 31, 1965, and the second time until December 31, 1966. The pending protocol, which would provide a third extension until December 31, 1968, was negotiated in London in November 1966. It was signed on behalf of the United States December 22, 1966, and transmitted to the Senate by the President with a request for advice and consent to ratification on May 9, 1967.

The Foreign Relations Committee held a hearing on the protocol November 17 and ordered it reported November 30. The transcript of the hearing is appended to this report.

3. COMMITTEE COMMENTS AND RECOMMENDATION

The pending protocol in itself raises no substantive issues. It imposes no obligations on the United States other than payment of the U.S. share of the expenses of the International Sugar Council (approximately $20,000 a year. It has no effect on U.S. sugar legislation.

Even when the economic provisions of the 1958 agreement were in effect, that agreement covered only sugar traded in the world free market; that is, sugar not subject to special arrangements such as imports into the United States or the United Kingdom. This free sugar amounts to only about 10 percent of total world sugar production, but it has historically been subject to the widest price fluctuations and it is an important item in the foreign trade of several countries of Latin America.

Since the failure of the 1961 Sugar Conference, it has proved impossible to negotiate a new agreement, mainly because of the attitude of Cuba and the fundamental change in world sugar trade resulting from the replacement of the United States by the Soviet Union as the principal market for Cuban sugar. Other sugar-producing countries, however, have felt it worthwhile to keep the International Sugar Council and its small secretariat in being to collect and publish sugar statistics and to provide a readily available administrative mechanism if and when it may become possible to negotiate a new agreement.

In view of the importance of sugar to the countries of Latin America, and especially the Caribbean, the committee agrees that continued U.S. participation in the International Sugar Council is worth the cost of approximately $20,000 a year. The committee therefore recommends that the Senate give its advice and consent to ratification of the protocol.

UNANIMOUS-CONSENT AGREEMENT TO VOTE AT 2 O'CLOCK TOMORROW AFTERNOON

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on the pending business take place at 2 o'clock tomorrow afternoon.

Mr. STENNIS. Mr. President, will the Senator repeat that request?

Mr. MANSFIELD. I asked that the vote upon the convention take place at 2 o'clock tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. LAUSCHE. Mr. President, the vote is on the convention?

Mr. MANSFIELD. Yes. It provides for the extension of the International Sugar Agreement. It has nothing to do with sugar prices, products, or crops within the area of the United States or areas close by. It was unanimously reported. It will cost $20,000 to the United States to continue the protocol.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? Without objection, it is so ordered.

The unanimous-consent agreement, later reduced to writing, is as follows:

Ordered, That at 2 o'clock p.m. on Wednesday, December 6, 1967, the Senate proceed to vote on the resolution of ratification to Executive K (90th Cong., first sess.), the protocol for the further prolongation of the International Sugar Agreement of 1958.

The PRESIDING OFFICER. Without objection, the treaty will be considered as having passed through its various parliamentary stages up to the point of the

consideration of the resolution of ratification, which the clerk will read.

The assistant legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the protocol for the further prolongation of the International Sugar Agreement of 1958, done at London, November 14, 1966 (Ex. K, 90th Cong., first sess.).

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the resolution of ratification?

Mr. MANSFIELD. Mr. President, now I ask for the yeas and nays.

The yeas and nays were ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session and that the pending business be stated once again.

There being no objection, the Senate resumed the consideration of legislative business.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS ACT OF 1967

The PRESIDING OFFICER. The pending business will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 7819) to strengthen and improve programs of assistance for elementary and secondary education by extending authority for allocation of funds to be used for education of Indian children and children in overseas dependents schools of the Department of Defense, by extending and amending the National Teacher Corps program, by providing programs of education for the handicapped; to improve authority for assistance in schools in federally impacted areas and areas suffering a major disaster; and for other purposes.

The Senate resumed the consideration of the bill.

Mr. MANSFIELD. Mr. President, there will be no votes tonight.

ORDER FOR ADJOURNMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business this evening, it stand in adjournment until 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT

Mr. MANSFIELD. Mr. President, if there be no further business, I move under the previous order, that the Senate stand in adjournment.

The motion was agreed to; and (at 5 o'clock and 40 minutes p.m.) the Senate adjourned until tomorrow, Wednesday, December 6, 1967, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate December 5, 1967:

FEDERAL TRADE COMMISSION

James M. Nicholson, of Indiana, to be a Federal Trade Commissioner for the unexpired term of 7 years from September 26, 1962, vice John R. Reilly, resigned.

DIPLOMATIC AND FOREIGN SERVICE

Charles E. Bohlen, of the District of Columbia, a Foreign Service officer of the class of career Ambassador, to be a Deputy Under Secretary of State.

IN THE ARMY

The following-named persons for appointment in the Regular Army of the United States, in the grades specified, under the provisions of 10 U.S.C. 3283 through 3294, and 3311:

To be majors

Barker, Frank A., Jr., O989282.
Wasco, Joseph, Jr., O470134.
Wyllie, Clement A., Jr., O2028534.

To be captains

Andrew, John K., O5405315.
Chancey, Jeff E., O5310980.
Fitzgerald, Herman L., Jr., O5210989.
George, Joseph L., O5306499.
Hearn, Forrest, O1942180.
Holman, Glenn W., O5512722.
Koziatek, Norbert W., O4010582.
Lopez, Hector L., O5404300.
Purdon, Robert W., O4068186.
Williams, Billy G., O4026176.

To be first lieutenants

Adams, Thomas H., O5322917.
Arlinsky, Harris D., O3133314.
Barrington, Jerald W., O5519780.
Besterman, Gerald, O2319747.
Cavanaugh, Edward W., Jr., O5321902.
Cunniff, Schuyler N., O5017584.
Davis, George H., O2318369.
Daxe, Arnold, Jr., O5016699.
Garrott, Robert W., Jr., O5706832.
Gerace, Samuel J., O2310316.
Griffin, David J., O5406820.
Heggen, Wayne L., O5710258.
Holmes, Garth H., O5703935.
Huntington, Bobby N., O5415897.
Jones, Leonard M., O5314373.
King, Fred H., O5209049.
Koval, Richard K., O5222810.
Kugler, Roger K., O5709687.
Kuhn, Ronald M., O5415308.
Maddry, Ted R., O5315518.
Magness, Donald F., O5321295.
Mahoney, James V., Jr., O4065971.
Merola, Vincent A., O5015830.
Morelli, Nicholas, O2317587.
Nelson, Charles D., O5325143.
Nilson, Gary L., O2296091.
Popham, Roger E., O5321012.
Risko, Michael, Jr., O5020047.
Robinson, Johnny S., O5320628.
Rosenblum, Victor S., O5013765.
Schaller, Robert H., O5011543.
Spencer, Darrell A., O5020234.
Spruiell, Jerry B., O5313199.
Stanger, Rodney T., O5416628.
Trew, Grady, O5418846.
Walker, Edward G., O5405744.
Way, Darwin M., Jr., O5220343.
Weisenburgh, Louis B., III, O5415945.
White, Lowell L., O5406239.
Williams, William J., O5322479.
Winston, Albert P., O5404038.

To be second lieutenants

Angeli, Raymond S., O5327154.
Bacon, John E., Jr., O5426776.
Beck, Dwight A., O5520947.
Bowers, John E., O5317614.
Brown, James I., O5427434.
Cole, John M., Jr., O5334038.
De Bonville, Robert G., O2322388.
Delaney, John J., O5419437.
Devlin, Barbara, L2325784.
Dillon, Dana B., O2329234.
Fraser, Robert E., O2322394.
Hoch, Joseph F., O5243533.
Hooker, Scottie T., O5324581.
Kimmel, Carl E., O5227345.
McArthur, Colin L., O5023226.
McLarty, William T., Jr., O5328317.
Miles, Ronald D., O2325100.
Milton, Frederick J., O5009261.
Morris, Melvin L., O5321354.
Muir, George E., O2321313.
Parks, Larry D., O5242089.
Robeson, William M., O5419728.
Salentine, John H., O2320455.
Shanabruch, Raymond E., O5533148.
Wisdom, Harry A., Jr., O2321221.

The following-named distinguished military and scholarship students for appointment in the Regular Army of the United States, in the grade of second lieutenant, under the provisions of 10 U.S.C. 2106, 2107, 3283, 3284, 3286, 3287, 3288, 3290:

Agee, Hubert C., Jr.	Hensley, Edward L.
Andre, Drue M.	Henricks, Robert A.
Beck, David W.	Juliano, Jerold W.
Beyrer, William H.	Lartigue, Louis J.
Bottman, John A.	Mackey, Patrick J.
Boudreaux, Freddie M.	Magee, Burl D.
Bussell, Jerry L.	Manuel, Gerald G.
Chapin, Orville L.	Perry, Robert C.
Demattia, Robert A.	Pickens, Monte L.
Downs, Curtis H., III	Shaw, John W.
Gallivan, James J.	Teasley, Allan V.
Garza, Reuben R.	Warren, Harold M.
Gordon, William H., IV	Wise, Thomas J.
Hammett, David P.	Yatsevitch, Peter G.

HOUSE OF REPRESENTATIVES

TUESDAY, DECEMBER 5, 1967

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

He that doeth the will of God abideth forever.—I John 2: 17.

Let us pray. Out of deep sense of need, our Father, we come to Thee, praying that Thou wilt help us to be aware of Thy presence as we kneel at the altar of prayer and offer ourselves to Thee at the beginning of another day.

At times we seem to talk too much and think too little, we are heard professing loudly but practicing in such small ways, we worry often but worship so seldom. Forgive us, O Lord, and help us to think more, to practice more, and to pray more that Thy spirit may come to new life in us and through us come to new life in our Nation.

Grant unto us, the Representatives of our people, wisdom and faith as we meet in this troubled hour. Help us to accept our responsibilities with courage, make our decisions with confidence, and plan for the future with creative hope.

We pray that Thou wilt awaken the faith of Americans in America that our laws may be obeyed, order made to prevail and good will move in the hearts of all our countrymen. In the spirit of Christ, we pray. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

NOMINATION OF LT. GEN. LEONARD F. CHAPMAN, JR., TO BECOME COMMANDANT OF THE MARINE CORPS

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to address the House for